

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.504 OF 2022

SYED NAVEED S/O SYED MUKRAM DAIMI
VERSUS
THE CHIEF OFFICER, MUNICIPAL COUNCIL, UDGIR

...
Mr. G. R. Syed, Advocate for the petitioner.
Mr. Ajinkya Reddy, Advocate for the respondent.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Date : 08.07.2022

ORDER :-

. Heard learned Advocate Mr. G. R. Syed for the petitioner and learned Advocate Mr. Ajinkya Reddy for the respondent.

2. The petitioner is the original complainant, who has filed application under Section 13(3) of the Registration of Birth and Death Act, 1969 before the learned Judicial Magistrate First Class, Udgir. His application i.e. Criminal Miscellaneous Application No.104 of 2020 has been dismissed in default by the learned Magistrate on 24.01.2022 and, therefore, he has filed this writ petition for setting aside the said order.

3. It is to be noted that as per the petitioner, he had gone out of the country prior to Covid-19 and had returned to India only on 24.01.2022.

No doubt, copy of the roznama that has been produced shows that even after the Covid situation was normalized, the applicant was absent and his Advocate was also absent. Under such circumstance, the learned Magistrate would have been justified in dismissing the complaint, however, taking into consideration the fact that the petitioner – applicant was only seeking direction to take an entry in respect of his birth in the respective register, case is made out to restore the said application. Hence, the following order is passed :-

ORDER

- I) The writ petition stands allowed.
- II) The order dated 24.01.2022 passed by the learned Judicial Magistrate First Class, (Court No.2), Udgir in Criminal Miscellaneous Application No.104 of 2020 dismissing it in default, stands set aside. The said application stands restored.
- III) The applicant to deposit cost of Rs.2,000/- to the Taluka Legal Services Authority, Udgir on or before 25.07.2022.
- IV) Upon deposit of the said amount, the matter be restored to the file of the learned Judicial Magistrate First Class.

[SMT. VIBHA KANKANWADI, J.]

scm