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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

PRESENT :

THE HON'BLE JUSTICE PARTHA SARATHI SEN

W.P.A. No. 19079 of 2015

Shyamal Kumar Mridha

-vs.-

The State of West Bengal & Ors.

For the Petitioner : **Mr. Supriyo Chattopadhyay
Mr. Sudip Kumar Maiti
Mr. Deborshi Chatterjee**

For the Respondent no. 6 : **Md. Nurezaman
Ms. Anima Chakraborty**

For the State : **Mr. Amitesh Banerjee
Mr. Tarak Karan**

Heard On : **20.09.2024**

Judgment On : **20.09.2024.**

PARTHA SARATHI SEN, J.

1. Two numbers of affidavits-of-service as filed on behalf of the writ petitioner, are taken on record.
2. Learned advocate for the respondent no.6 files affidavit-in-opposition. Let the same be taken on record.

3. Learned advocate for the writ petitioner also files affidavit-in-reply. Let the same be also taken on record.
4. In this writ petition the writ petitioner has prayed for issuance of an appropriate writ to quash the death certificate as issued by the respondent no.5, being the Pradhan of Khulna Gram Panchayat, Village and Post Office – Khulna, Police Station – Sandeshkhali, District – North 24 Parganas, in the name of Panchimoni Mridha as issued on 10th September, 2003 along with other ancillary reliefs.
5. In support of his contention, learned advocate for the writ petitioner at the very outset draws attention of this Court to Annexure-P/1 and Annexure-P/4 to the writ petition. It is submitted that from the impugned death certificate it would reveal that the deceased Panchimoni Mridha allegedly died on 03.10.1964, whereas such death was registered by the respondent no.5 on 10.09.2003.
6. It is further submitted by the learned advocate for the writ petitioner that from the Annexure-P/4 it would reveal that the informant's name has been kept blank. In course of his submission, learned advocate for the writ petitioner also refers to Annexure-P/3 being a copy of reply dated 15.04.2008 as given by the CMOH, North 24 Parganas under the Right to Information Act, 2005. It is contended by him that from the answer no.2 of the said reply it would reveal

that CMOH, North 24 Parganas has specifically stated that no death certificate of the said deceased was issued from Sandalarbil BPHC in 2003.

7. In his next fold of submission, learned advocate for the writ petitioner draws attention to this Court to Rule 10(3) of the West Bengal Registration of Births and Deaths Rules, 2000 (hereinafter referred to as the 'said Rules of 2000' in short). It is submitted that the aforementioned death certificate which is under challenge, has not been issued as per order of an Executive Magistrate, which is mandatorily be done as per the provisions of the said Rules. It is thus, submitted that there occurred gross illegality and/or irregularity in issuing the death certificated dated 10.09.2003 in the name of Panchimoni Mridha.
8. Per contra, learned advocate for the private respondent no.6 draws attention of this Court to the West Bengal Registration of Births and Deaths Rules, 1972 (hereinafter referred to as the 'said Rules of 1972' in short). He draws attention to this Court to the Rule 5(3) of the said Rules of 1972. It is submitted by him that as per the said Rules of 1972, every Dafadar, Chowkidar or other village watchman and where there is no such Dafadar, Chowkidar or other village watchman, an authorized person is duty bound to collect the particulars of every birth and death and he shall present such

information by filing the prescribed form. It is submitted that since the deceased, Panchimoni Mridha died on 03.10.1964, the said Rules of 2000 has got no application and there is, thus, no illegality and/or irregularity on the part of the State respondents, more specifically the respondent no.5 in issuing the death certificate which is under challenge before this Court.

9. After careful consideration of the entire materials as placed before this Court and after giving due consideration over the submissions of the learned advocates for the contending parties, it appears to this Court that for some reason or other the death report of Panchimoni Mridha, since deceased was reported on 10.09.2003 and the same was registered on the self-same date. No document is forthcoming either from the affidavit-in-opposition of the State respondents or from the affidavit-in-opposition of the private respondent that death report of the abovementioned deceased was submitted on an earlier occasion.
10. At this juncture, this Court intends to look to Rule 10 of the said Rules of 2000, which is quoted below in verbally:-

“Authority for delayed registration and fee payable therefore.-

(1)

(2)

(3) Any birth or death which has not been registered within one year of its occurrence shall be registered only on an order of an Executive Magistrate and on payment of a late fee of rupees ten.”

11. From the aforementioned Rules, it thus reveals that after notification of the said Rules of 2000, no death can be registered after one year of its occurrence without an order of Executive Magistrate.
12. In course of his submission, learned advocate for the State exactly raised the same point. It is candidly submitted by him that the respondent no.5 is the appropriate authority as to how he/she issued the impugned death certificate ignoring the said Rules of 2000 as a Registrar of births and deaths.
13. It appears to this Court that the learned advocate for the State respondents not only disputed the genuineness of the certificates of death in question, he has also raised the competency of the respondent no.5 being the Pradhan of the gram panchayat to issue a certificate of death without obtaining an order of an Executive Magistrate.
14. In view of the discussions made hereinabove, this Court thus finds sufficient merits in the instant writ petition. This Court has every reason to believe that the respondent no.5 being the Pradhan of Khulna Gram Panchayat acted beyond his jurisdiction in issuing the

death certificate of Panchimoni Mridha showing the date of registration of death on 10.09.2003.

15. As a result, the instant writ petition succeeds. The death certificate bearing no. F-91/050124, dated 10.09.2003 in the name of Panchimoni Mridha bearing date of registration dated 10.09.2003 stands hereby quashed.
16. Accordingly, the writ petition is disposed of.
17. All the parties are directed to act on the basis of the server copy of this order.
18. Urgent Xerox certified copy of this order, if applied for, be given to the parties on priority basis.

(PARTHA SARATHI SEN, J.)

**Gourab Banerjee
A.R. (Court)**