

07.03.2025
Sl. No. 05.
D/L.
Mithun
Ct.No.39.

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

WPA 12231 of 2023

**Santosh Bagchi
Vs.
The State of West Bengal & Ors.**

Mr. Uday Narayan Betal,
Mr. Mriganka Patra

...for the petitioner

Mr. Dwijadas Chakraborty,
Sk. Sujauddin

...for respondent no.8.

Mr. Jaharlal De,
Mr. Rudranil De

...for the State

This writ petition has been filed challenging the order of cancellation of death certificate of the father of the petitioner by respondent no.3.

This is second round of litigation.

Previously, respondent no.8 herein, filed a writ petition being WPA 21454 of 2022 praying for mandamus for cancellation of death certificate issued consequent to death of one Gouri Shankar Bagchi. It was contended therein that in the death certificate issued by the authority under the provisions of Section 12 read with Section 17 of the Rules of Registration of Births and Deaths Act, 1969, the date of death has been mentioned as 2nd February, 1968 and such death certificate has been issued on 23rd February, 2015.

Upon hearing the learned Advocates for the respective parties, following direction was issued:-

“The petitioner may approach the concerned authority in accordance with the Registration of Births and Deaths Act, 1969 read with the Rules. If such approach is made, the same shall be disposed of in accordance with law upon hearing the petitioner, the respondent no.7 and all other heirs and legal representatives of the deceased within six weeks from receipt of the application. A reasoned order shall be passed and communicated to all. Whether the death certificate dated February 23, 2015 was issued as per procedure shall also be indicated as the law provides what steps shall precede issuance of the certificate in case there is a delay in recording such death.”

Mr. Uday Narayan Betal, learned Advocate for the petitioner submits that the petitioner was never notified to appear for the hearing as directed in the order and the impugned order has been passed by respondent no.3, Additional District Magistrate (General), Murshidabad without hearing the petitioner. He further indicates that the impugned order is also undated. In light of the above, he submits that the impugned order be set aside and matter be may relegated to the authority concerned for fresh consideration after due notice to the petitioner.

Mr. Jaharlal De, learned Advocate for the State-respondents submits that as per Section 13 of the Registration of Births and Deaths Act, 1969 read with Rule 10 of the West Bengal Registration of Births and Deaths Rules, 2000, if any information of any birth or death is given to the Registrar, after one year, the same is to be registered upon an order by a Magistrate of First Class or a Presidency Magistrate after verification of the

correctness of birth or death and on payment of prescribed fees. It is not in dispute that the application for registration of the death of Gouri Shankar Bagchi (deceased) has been made in the year 2014. Accordingly, the certificate ought to be cancelled since it is issued after the statutory period of one year. However, he candidly submits that the impugned order does not reflect that the petitioner was duly notified. He submits that the matter may be remanded to the concerned authority for fresh consideration upon service of notice upon the petitioner. He files copy of the order passed by respondent no.3, Additional District Magistrate (General), Murshidabad which is taken on record.

Learned Advocate for private respondent no.8 leaves the matter to the discretion of the Court.

Upon going through the order passed by respondent no.3, Additional District Magistrate (General), Murshidabad, it is found that there is no such clear observation that the notice of hearing was duly served upon the petitioner or the petitioner was heard in terms of order of this Court prior to passing of the impugned order.

In view of the above, the impugned order no.1 (undated) passed in a proceeding in connection with WPA No. 21454 of 2022 by respondent no.3, Additional District Magistrate (General), Murshidabad is set aside. The matter is remanded to respondent no.3, Additional

District Magistrate (General), Murshidabad with a direction to consider the matter afresh after due service of notice and giving opportunity of hearing to the petitioner, the private respondent no.8 as well as all other legal heirs, in terms of order of this Court dated 14th November, 2022 passed in WPA No. 21454 of 2022. The authority concerned shall dispose of the matter in accordance with law within a period of six weeks from the date of communication of the order.

Petitioner is directed to communicate this order to respondent no.3, Additional District Magistrate (General), Murshidabad.

With the aforesaid directions, the writ petition being **WPA 12231 of 2023** stands disposed of.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)