



W.P.No.2181 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2181 of 2025

Umesh Mangrati,
Rep by his Power Agent
Marcello Patrick Claudius

... Petitioner

Vs.

1. The Commissioner of Police,
132, EVK Sampath Road,
Periyamet, Vepery,
Park Town,
Chennai – 600 007.

2. The Inspector of Police,
C1, Flower Bazaar Police Station,
NSC Bose Road,
Flower Bazaar,
Chennai – 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to consider and take immediate action on petitioner's representation dated 27th September 2024 regarding the issuance of the Non-Traceable Certificate in connection with Crime No.1075 of 2017 at C1 Flower Bazaar Police Station, Chennai.



WEB COPY



W.P.No.2181 of 2025

For Petitioner : Mr.Gokula Rao

For Respondents : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This writ petition has been filed for direction to direct the respondents to consider the representation submitted by the petitioner seeking issuance of non-traceable certificate in connection with Crime No.1075 of 2017 on the file of the second respondent.

2. The petitioner's father has been missing from 09.06.2017 and hence a complaint was lodged before second respondent and the same got registered in Crime No.1075 of 2017 under man missing. It is pending for investigation for the past seven years. While the petitioner's father was missing, he was working in the forest department at Darjeeling, West Bengal. The petitioner's father visited Chennai along with his family and when they were waiting for train in the Central Railway Station to return to home, he was missing from the Central Railway Station. Therefore, the petitioner submitted representation for issuance of non-traceable certificate in order to declare him as dead for the purpose of applying family pension and compassionate appointment.



W.P.No.2181 of 2025

WEB COPY 3. The learned counsel appearing for the petitioner would submit that for the past seven years, the FIR is pending without any progress. Therefore, the petitioner is entitled to receive a certificate of presumption of death by issuance non-traceable certificate. As per the letter dated 26.09.2012, issued by the Ministry of Home Affairs of India to all the Chief Registrars of Births and Deaths, it was clarified that when the provisions of Section 13(3) of the Registration of Births and Deaths Act, 1969 provide for registration of death, in such cases by the competent Court orders only and when 'date of death' may be mentioned as the date when plaintiff approached the Court, it appears to be prudent that 'place of death' may be that place where plaintiff approached the Court.

3.1. On the strength of the circular, the Hon'ble Division Bench of this Court in ***W.A.(MD)No.440 of 2020*** dated ***01.07.2020*** held that in the case of missing persons, the question of obtaining death certificate from the competent authority will not arise. On the other hand, a non-traceable certificate has to be obtained from the jurisdictional police station based on which, the legal heirs of the missing person could apply



W.P.No.2181 of 2025

WEB COPY

for legal heir certificate, terminal/pensionable benefits of the deceased, insurance claims and all the other claims pertaining to the missing person. Therefore the legal heir of the missing person can seek declaration of presumption of death, after the period of seven years from the date of missing before the competent civil Court. Therefore, when this Court seized the proceedings then the expression concerned Court would be the High Court and not the trial Court.

4. The learned Government Advocate (Crl. Side) appearing for the respondents submitted that after registration of FIR under man missing, it could not be referred as 'further action dropped' or it cannot be closed as 'un-deducted one'. The petitioner's father could not be traced out and the FIR is still pending. Therefore, the request made by the petitioner cannot be considered and the petitioner ought to have approached the Civil Court for declaration declaring that the petitioner's father is died as civil death.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



W.P.No.2181 of 2025

WEB COPY 6. On perusal of records revealed that the FIR was instituted on 18.06.2017 under man missing, on the complaint lodged by the petitioner's cousin alleging that when they were waiting for the train to go home town at Darjeeling, West Bengal, the petitioner's father was missing. On receipt of the said complaint, the second respondent registered FIR in Crime No.1075 of 2017, under man missing and it is pending for more than seven years. Therefore, the petitioner could not able to apply for any death and pensionary benefits and also to get appointment on compassionate ground. Hence, the second respondent can very well issue non-traceable certificate, even while pending the FIR. It would not amount to closure of FIR as 'un-deducted one' or refer the same as 'further action dropped'.

7. In view of the above facts and circumstances, the second respondent is directed to issue non-traceable certificate to the petitioner so that, he can apply for all benefits of his father's employment in the forest department, within a period of two weeks from the date of receipt of a copy of this Order.



W.P.No.2181 of 2025

WEB COPY

8. With the above directions, the Writ Petition stands Allowed.

There shall be no order as to costs.

04.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



W.P.No.2181 of 2025

WEB COPY

To

1. The Commissioner of Police,
132, EVK Sampath Road,
Periyamet, Vepery,
Park Town,
Chennai – 600 007.

2. The Inspector of Police,
C1, Flower Bazaar Police Station,
NSC Bose Road,
Flower Bazaar,
Chennai – 600 001.

3. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



W.P.No.2181 of 2025

G.K.ILANTHIRAIYAN, J.

rts

W.P.No.2181 of 2025

04.03.2025