



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 26850 OF 2018 (LB-BMP)

BETWEEN:

MRS SARASWATHI S P

...PETITIONER

(BY SRI. KESHAVA MURTHY B.,ADVOCATE)

AND:

1. THE COMMISSIONER
BRUHATH BANGALORE MAHANAGARA PALIKE
N R SQUARE
BANGALORE-560 002
2. THE REGISTRAR OF BIRTH AND DEATH
BRUHATH BANGALORE MAHANAGARA PALIKE
RAJAJINAGAR RTO COMPLEX,
BANGALORE-560 010
3. THE HEALTH OFFICER
MAHALAKSHMIPURA REGION
NAGAPURA SUB-DIVISION
BRUHATH BANGALORE MAHANGARA PALIKE
RAJAJINAGAR RTO COMPLEX,
BANGALORE-560 010.

...RESPONDENTS

(BY SRI. K.V. MOHAN KUMAR., ADVOCATE FOR R1-3)

Digitally signed
by
NARAYANAPPA
LAKSHMAMMA
Location: HIGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDERS BY QUASHING THE ENDORSEMENT DTD 6.1.2018 ISSUED BY THE R-3 HEALTH, OFFICER, MAHALAKSHIMPURAM REGION, BBMP, PRODUCED AT ANNEXURE-A AND ALLOW THIS PETITION DIRECTING THE R-3 TO REGISTER AND ISSUE THE DEATH CERTIFICATE OF PETITIONER'S HUSBAND MR.SHANTHAKUMAR S/O SIDDAPPA AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following reliefs:

- a. *Issue a writ in nature of Certiorari or any other appropriate writ or order/s by quashing the endorsement dated 06.01.2018 issued by the Respondent No.3 Health Officer, Mahalakshimpuram Region, BBMP produced at Annexure-A and allow this petition directing the Respondent No.3 to register and issue the Death Certificate of petitioner's husband Mr.Shanthakumar S/o Mr. Siddappa.*
- b. *Pass such other order or orders as this Hon'ble Court deems fit to grant under the circumstances of the case in the interest of justice and equity.*



2. The petitioner's husband, an excavator operator with the Bruhat Bengaluru Mahanagara Palike (BBMP), was washed away in heavy rain while working in a stormwater drain on 20.05.2017. Pursuant thereto, the Deputy Commissioner (Administration) of BBMP had ordered for payment of compensation of Rs.10 lakhs which was paid to the petitioner. An FIR in Crime No.178/2017 was registered with Mahalakshmpuram Police Station. Mahalakshmpuram Police Station have on 27.03.2018, issued an endorsement that the body of the husband of the petitioner was not found. The petitioner, having been requesting for issuance of a death certificate in respect of her husband, the said death certificate not having been issued, is before this Court seeking for the aforesaid reliefs.

3. Sri.B.Keshava Murthy, learned counsel for the petitioner would submit that the death of the husband of the petitioner has been accepted by the



respondent authorities themselves by making payment of compensation amount and there being extensive news coverage as regards the incident both in English and Kannada newspapers and the body of the husband of the petitioner having been washed away in stormwater drain and not having been found, the respondent ought to have acted and issued the death certificate.

4. Sri.K.V.Mohan Kumar, learned counsel for BBMP would submit that there is a procedure which is required to be followed for the purpose of issuance of death certificate inasmuch as in terms of Rule 7 of Karnataka Registration of Births and Deaths Rules 1999 (for short, 'Rules'), a certificate as to cause of death is required to be issued under Sub-Section (3) of Section 10 of the Rules in Form No.4 where the death occurs in hospitals and in Form No.4A in case of death occurring in other places. It is only on that basis that an application for the issuance of a death



certificate can be considered. No body has been found if the husband were to return alive, the death certificate would be false. He submits that since no such certificate has been produced by the petitioner, the respondent is unable to issue a certificate.

5. In reply thereto, learned counsel for the petitioner would submit that the petitioner is unable to obtain such death certificate since there is no body which is available for a medical practitioner to examine the body and issue a certificate. On this ground, he submits that the respondent ought to issue a death certificate.
6. Heard Sri.B.Keshava Murthy, learned counsel for the petitioner and Sri.K.V.Mohan Kumar, learned counsel for BBMP and perused the papers.
7. The death report is required to be submitted in Form
2. The said report reads as under:-



FORM NO.2 DEATH REPORT (See Rule 5) Legal information <i>This part to be added to the Death Register</i>		DEATH REPORT Statistical information This part to be detached and sent for statistical processing	
<p><i>To be filled by the informant</i></p> <p>1. Date of Death : (Enter the exact day, month and year the child was born e.g. 1-1-2000)</p> <p>2. Name of the Deceased : (Full name as usually written) UID No of Father (if any)</p> <p>3. Sex of the deceased : (Enter "Male" or "Female" or "Transgender") Do not use abbreviation)</p> <p>4. Name of the Mother : UID No of Mother (if any)</p> <p>5. Name of the Father : UID No of Mother (if any)</p> <p>5a Name of the Husband / Wife : UID No of Mother (if any)</p> <p>6 Age of the deceased : (If the deceased was over 1 year of age, give age in completed years. If the deceased was below 1 year of age, give age in months, and if below 1 month give age in completed number of days, and if below one day, in hours)</p> <p>7. Address of the deceased at the time of Death:</p> <p>8 Permanent address of the deceased: Mobile No :</p> <p>9 Place of death: (Tick the appropriate entry 1,2 or 3 below and give the name of the Hospital/Institution or the address of the house where the death took place, If other place give location) 1. Hospital/ Institution Name & Address: 2. House Address : 3. Others:</p> <p>10. <i>Informant's name: Address: (After completing all Columns 1 to 21, Informant will put date and signature here :)</i></p>	<p>To be detached and sent for statistical Processing</p>	<p><i>To be filled by the informant</i></p> <p>11. Town or Village of Residence of the deceased : (Place where the deceased actually lived. This can be different from the place where the death occurred. The house address is not required to be entered.)</p> <p>a) Name of Town/Village :</p> <p>b) Is it a town or village : (Tick the appropriate entry below)</p> <p>1. Town 2. Village</p> <p>12. c) Name of District :</p> <p>d) Name of State :</p> <p>Religion : (Tick the appropriate entry below)</p> <p>13. 1. Hindu 2. Muslim 3. Christian</p> <p>14. 4. Any other religion : (write name of the religion)</p> <p>Occupation of the deceased : (If no occupation write 'Nil')</p> <p><i>Type of medical attention received before death:</i> (Tick the appropriate entry below)</p> <p>1. <i>Institutional</i></p> <p>2. <i>Medical attention other than institution</i></p> <p>3. <i>No medical attention</i></p>	<p><i>To be filled by the informant</i></p> <p>15. Was the cause of death medically certified?: (Tick the appropriate entry below)</p> <p>1. Yes . 2. No</p> <p>16. Name of Disease or Actual Cause of Death : (For all deaths irrespective of whether medically certified or not)</p> <p>17. In case this is a female death, did the death occur while pregnant, at the time of delivery or within 6 weeks after the end of pregnancy?:(Tick the appropriate entry below)</p> <p>1. Yes 2. No</p> <p>18. If used to habitually smoke - for how many years?</p> <p>19. If used to habitually chew tobacco in any form -for how many years?</p> <p>20. If used to habitually chew arecanut in any form (including pan masala) -for how many years?</p> <p>21. If used to habitually drink alcohol - for how many years?</p>
<p>Date : Signature or left thumb mark of the informant</p>	<p>(Columns to be filled are over. Now put signature at left)</p>		
<p><i>To be filled by the Registrar</i></p>	<p><i>To be filled by the Registrar</i></p>		
<p>Registration No: Registration date :</p> <p>Registration Unit : Town/Village : District :</p> <p>Remarks (If any)</p> <p style="text-align: right;">Name and Signature of the Registrar</p>	<p style="text-align: center;">Name</p> <p>District :</p> <p>Tahsil :</p> <p>Town / Village :</p> <p>Registration Unit :</p>		<p>Registration No: Registration date :</p> <p>Date of Death :</p> <p>Sex : 1. Male 2. Female</p> <p>Age : Years / Months/Days / Hours</p> <p>Place of Death: 1. Hospital / Institution 2. House</p> <p style="text-align: right;">Name and Signature of the Registrar</p>



- 8. A perusal of the said report would indicate that the personal details of the deceased have to be stated along with the informant details.
- 9. It is further required for statistical information that the medical attention received by the deceased be, whether the death was medically certified, name of the deceased and actual cause of death are to be stated. This death report does not require any certification by either a hospital or doctor. However, it is stated that the death report is required to be accompanied by Form 4 or Form 4A, which is a cause of concern in the present matter, which reads as under:-

FORM NO.4

(See Rule 7)

MEDICAL CERTIFICATE OF CAUSE OF DEATH

(Hospital in patients. Not to be used for stillbirths)

To be sent to Registrar along with From No.2 (Death Report)

Name of the Hospital:

I hereby certify that the person whose particulars are given below died in the hospital in ward No..... on at A.M./P.M

Name of Deceased		For use of Statistical Office
Sex	Age of Death	



	If 1 year or more, age in Years	If less than 1 year, age in Months	If less than one month, age in Days	If less than one day, age in Hours	
1. Male					
2. Female					
CAUSE OF DEATH				Interval Between on-set and death Approx	
I. Immediate cause (a) State the disease, Due to (or as a consequence of) injury or complication which caused death, not the mode of dying such as heart failure, asthenia, etc. Antecedent Cause Morbid (b)..... conditions, if any, giving to Due to (or as a consequence of) the above Cause, stating under conditions last (c)
II. Other Significant conditions contributing to the death but not related to the diseases or conditions causing it.			
Manner of Death How did the injury occur? 1. Natural 2. Accident 3. Suicide 4. Homicide 5. Pending Investigation If deceased was a female, was pregnancy the death associated with? 1. Yes 2. No If yes, was there a delivery? 1. Yes 2. No					
Name and Signature of the Medical Attendant certifying the Cause of Death. Date of Certification: SEE REVERSE FOR INSTRUCTIONS (To be detached and handed over to the relative of the deceased) Certified that Shri/Smt/Kum..... S/W/D of Shri.....R/O..... was admitted to this hospital on..... and expired on <div style="text-align: right;"> Doctor:..... (Medical Supdt. Name of the hospital) </div>					



FORM NO.4-A

(See Rule 7)

MEDICAL CERTIFICATE OF CAUSE OF DEATH

(For non-institutional deaths. Not to be used for stillbirths)

To be sent to Registrar along with Form No.2 (Death Report)

I hereby certify that the deceased Sri/Smt/Kum..... S/D/W ofresident ofwas under my treatment from to and he/she died onat.....A.M./P.M.

Name of Deceased				For use of Statistical Office
Sex	Age of Death			
	If 1 year or more, age in Years	If less than 1 year, age in Months	If less than one month, age in Days	
1. Male 2. Female				
<p align="center">CAUSE OF DEATH</p> <p>I. Immediate cause (a) State the disease, Due to (or as a consequence of) injury or complication which Caused death, not the mode of dying such as Heart failure, asthenia, etc. Antecedent cause Morbid (b) conditions, if any, giving to Due to (or as a consequence of) the above Cause, stating under conditions last (c)</p>				Interval Between on-set and death Approx
<p>II. Other Significant conditions contributing to the Death but not related to the diseases or conditions causing it.</p>				
<p>If deceased was a female, was pregnancy the death associated with? 1. Yes 2. No If yes, was there a delivery? 1. Yes 2. No</p>				



Name and Signature of the Medical Practitioner certifying the Cause of Death.
Date of Verification:.....

SEE REVERSE FOR INSTRUCTIONS

(To be detached and handed over to the relative of the deceased)

Certified that Shri/Smt/Kum..... S/W/D of
Shri..... R/O.....was under my treatment
from to..... and he/she expired on

Doctor:.....
Signature and address of
(Medical Practitioner/Medical
Attendant with Registration No

10. Rule 7 of the Karnataka Registration of Births and Deaths Rules, 1999 is reproduced hereunder for easy reference:

"7. Form of certificate under Section 10.- The certificate as to the cause of death required under sub-section (3) of Section 10 shall be issued in Form No.4 in case of death occurring in hospitals, whether Government or Private, in Form 4-A in case of deaths occurring in other places and the Registrar shall, after making necessary entries in the register of deaths, forward all such certificates to the Chief Registrar in this behalf by the 10th of the month immediately following the month to which the certificates relate."

11. A perusal of Form 4 would indicate that the same is relating to the death which has occurred in an hospital and in such cases, though information



sought for is in the said form are required to be made available. Since in the present case, the death has not occurred in the hospital, the said Form 4 would not be applicable.

12. Form 4A is made applicable for non-institutional deaths which is stated to be for deaths which have occurred outside the hospital. In terms of Form 4A, apart from the information relating to the person, in respect of cause of death the information relating to immediate cause of death is required to be furnished and if this is due to any disease or morbid condition, the interval between onset and death is required to be stated and this is required to be certified by a medical practitioner or medical attendant with his/her registration number.
13. Thus, even regarding Form 4A, there is a certification required to be made by a doctor and for that purpose, the cause of death has to be stated.



Without such certification, Form 4A cannot be submitted to the respondent – authorities.

14. This is a peculiar case where the husband of the petitioner is stated to have been washed away in heavy rain while carrying out work for respondent in repairing a stormwater drain. The respondent officials have themselves searched for the body of the husband of the petitioner, the body was not found and thereafter on humanitarian grounds, the respondent has awarded a sum of Rs.10 lakhs as compensation to the petitioner, the insistence now being made on the basis of Rule 7 of the Rules for a certificate issued by a doctor indicating in terms of Form 4A in my considered opinion is completely unsustainable and would amount to injustice being caused to the petitioner.

15. Admittedly, the petitioner did not expire in a hospital; hence it is a certificate in Form 4A which is required to be issued by a doctor. A perusal of Form



4A would indicate that the doctor would have to certify if the deceased was under his treatment, the cause of death, significant conditions contributing to the death, the time of death and interval between on-set of the cause of death and the death. These are all aspects which could have only been certified by a doctor if the husband was under his treatment and if there was a body available. The report in Form 4A is to be sent along with a report in terms of Form 2.

16. When there is no body which is available, the question of respondent insisting for a certificate in terms of Form 4A would be completely illogical, the same can never be satisfied. Insistence on the same knowing fully well that it can never be satisfied has caused grave injustice to the petitioner (no pun intended).
17. The husband of the petitioner having expired in the year 2017, the petitioner is deprived of a death



certificate for the last 6 years. The issuance of both birth and death certificate has civil consequences, without such death certificate, the petitioner cannot take up activities which require the production of a death certificate.

18. As observed above, the death report not requiring any medical certification, it is only Form 4 and Form 4A, which require such certification. It could always have been available for the authorities to consider the death report and issue the death certificate taking into account the peculiar circumstances where the body has been washed away in the storm water drain. The authorities cannot act in a pedantic manner giving high preference to procedure when the substantial injustice could be caused by doing so. Procedure has been often said is only an handmaiden of justice and as such all procedures are to yield to the greater cause of justice and not cause injustice.



19. Necessary institutional mechanism could be put in place to have a check and balance system for issuance of death certificate where a body is not found by taking approval of higher authorities and while granting such permission record the reasons for doing so. The Corporation authorities cannot chose to keep quite and do nothing and thereby deprive the petitioner of the death certificate of her husband.

20. The apprehension on part of the respondent that if the husband of the petitioner were to return alive at a later point of time, the death certificate would amount to a false death certificate is again a baseless contention which is required to be rejected. It only appears that the corporation is clutching at straws to try and justify its inaction. If at all the husband of the petitioner were to return alive, the respondent can always cancel the death certificate. Merely because there is such an apprehension, a



living person cannot be deprived of a benefit of a death certificate of a person who is dead. In that view of the matter, I pass the following:

ORDER

1. The Writ Petition is allowed, a certiorari is issued quashing the endorsement dated 06.01.2018 issued by respondent No.3 at Annexure-A.
2. A mandamus is issued, Respondent No.3 is directed to issue necessary death certificate within a period of 30 days from the date of receipt of certified copy of this order in terms of the observations made above.

**Sd/-
JUDGE**