

HIGH COURT OF MADHYA PRADESH

BENCH AT GWALIOR

DIVISION BENCH

PRESENT

SHEEL NAGU & ANAND PATHAK, JJ.

(WRIT APPEAL NO. 120/2021)

Kallu Khan

Versus

State of M.P. & Ors..

=====

Shri H.K.Shukla, learned counsel for the appellant.

Shri D.D.Bansal, learned GA for respondents No. 1 to 4/State.

=====

Whether approved for reporting : Yes

Law laid down:-

(i) As per Section 13 (3) of Registration of Births and Deaths Act, 1969, only Judicial Magistrate First Class has the authority to verify the correctness of delayed registration of births and deaths which have not been registered within one year of its occurrence. Executive Magistrate has no authority to verify cases of delayed registration of births and deaths as per Section 13 (3) of Act of 1969.

(ii) Section 30 of Act of 1969 give power to State Government to make rules as specified into the

said provision but it does not give any authority in respect of Section 13 (3) of the Act of 1969, in specific terms, therefore, Rule 9 of M.P. Registration of Births and Deaths Rules, 1999 exceeds the mandate of Section 30 of Act of 1969 and thus, goes contrary to legislative intent. Therefore, Rule 9 deserves to be struck down / read down.

(iii) Section 20 of the General Clauses Act 1897 and Section 3(4) of Cr.P.C. relied and discussed.

-----XXXXXXXXXXXXXXXXXX-----

J U D G M E N T
(Passed on this 11th Day of February, 2022)

Anand Pathak, J.

1. Instant writ appeal has been preferred by the appellant/petitioner under Section 2 (1) of Madhya Pradesh Uchch Nyayalaya (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005 taking exception to order dated 29/1/2020 passed by learned writ Court in W.P.No. 1714/2020; whereby, petition (habeas corpus petition) preferred by appellant/petitioner has been dismissed.

2. Precisely stated facts of the case are that appellant as petitioner preferred a writ petition under Article 226 of the Constitution of India vide W.P.NO. 24982/2019 in the nature of Habeas Corpus with the allegations that corpus-Tamanna(sister of petitioner), a minor girl aged 16 years being kidnapped by respondents No. 5 to 8. Later on, corpus was produced by police

and she expressed her willingness to live with her parents and accordingly her statement was recorded before the Principal Registrar of this Court and she was released to live at her maternal home. Police registered a case vide Crime No. 381/2019 for offence under Section 376 of IPC and Section 3/ 4 of POCSO Act and charge-sheet was filed against accused persons and trial was pending at the relevant point of time.

3. It is further alleged that on 1/12/2019, respondent No. 5 again kidnapped the corpus, therefore, fresh complaint was lodged. Since police refused to take any action on the said complaint, therefore, complaints were made to higher Police Authorities and thereafter, instant writ petition (Habeas Corpus) was filed.

4. Meanwhile, Police produced the corpus again before the Court and she made a statement that she is Major and entered into wedlock with respondent No. 5-Chhotu S/o Harnarayan on her own volition and she expressed her desire to live with her husband at her matrimonial house. Learned writ Court directed her to write down her statement for which she expressed her inability to write down. Accordingly, with the direction of this Court, SHO, Police Station Dehat, District Bhind wrote the statement of corpus, which was signed by corpus as well as Constable Amrita, who brought her to the Court.

5. Main contention of petitioner was the age of corpus as according to him, date of birth of corpus is 2/5/2003, therefore, according to him, she was minor when she was allegedly

abducted. It was his submission that corpus studied in Govt. Shastri Primary School, Mau, District Bhind in which her date of birth is referred as 2/5/2003. However, corpus opposed the said contention on the basis of fact that she never studied in said school; in fact, she studied in Madarsa (मदरसा) and her parents have created forged mark-sheet of govt. Shastri Primary School, Mau, District Bhind for age purpose..

6. Father of petitioner Aaseen Khan lodged the FIR on 11/6/2019 when she eloped for the first time and same was registered vide crime No. 381/2019 in which he referred the age of his daughter as 17 years 11 months. Said fact appeared to be correct as stated before the writ Court because in the school leaving certificate as well as mark-sheet of Class VII, certificate of Saraswati Bal Vidhya Mandir dated 16/6/2012 (as provided later by Madarsa Islamiya School, Mau) refers the date of birth of corpus as 6/7/2001 and therefore, father rightly referred the age of corpus as 17 years 11 months and on 1/12/2019, she was major.

7. Learned writ Court came to the conclusion that earlier, Father of corpus lodged FIR and filed writ petition, now Brother of corpus has filed the writ petition while showing date of birth other than as mentioned in previous FIR (in which father of appellant/petitioner referred the age of his daughter as 17 years 11 months), resultantly, learned writ Court found the corpus to be Major as her correct date of birth was found to be 6/7/2001 and accordingly dismissed the writ petition.

8. Being aggrieved by the said order of writ Court,

appellant/petitioner preferred instant writ appeal on the ground that correct date of birth of corpus is 2/5/2003 and in support of his submissions, he referred birth certificate issued by Nagar Panchayat, Mau under the M.P. Registration of Births and Deaths Rules, 1999 (hereinafter shall be referred to as “Rules of 1999”). He also relied upon one certificate (undated) issued by Govt. Shastri Primary School Mau in which date of birth of corpus has been referred as 2/5/2003. He also referred the mark-sheet of year 2011-12 of Class III of corpus to suggest that date of birth of corpus is 2/5/2003.

9. Learned counsel for the respondents/State opposed the prayer and submits that birth certificate has been issued on 22/6/2020 in which date of birth of corpus has been referred by Chief Municipal Officer as 2/5/2003. He raised the question that after 17 years, CMO could not have issued such birth certificate because it is governed by provisions as contained in Section 13 of the Registration of Births and Deaths Act, 1969 (hereinafter shall be referred to as “Act of 1969”).

10. He further submitted that from perusal of the original record requisitioned by the order of this Court it appears that CMO issued the birth certificate on the basis of summary proceedings undertaken before the Tahsildar, Bhind as Executive Magistrate, in which on the basis of application and affidavit of father of corpus, Panchnama with documents and mark-sheet etc. attached, Tahsildar directed CMO vide order dated 10/6/2020 to register the date of birth of corpus as 2/5/2003.

11. It is his submission that after passing the order by writ Court dated 29/1/2020, this certificate has been issued by CMO on 22/6/2020 and therefore, same cannot be taken into consideration. Learned counsel for the State relied upon decision of Odisha High Court in the case of **S.K.Rahimuddin Vs. Ojifa Bibi and Ors., AIR 1989 Orissa 56**, of Karnataka High Court in the case of **B.S.Gangadharappa Vs. Tahsildar, Soraba Taluk, Soraba, 1995 Cri.L.J. 2820** and that of Gujrat High Court in the case of **Karimabibi Wd/O Gulam Mohammad Mustafa Karodiawad and Ors. Vs. Ankleshwar Municipality and Ors., AIR 1998 Gujrat 42** in support of his submissions. He prayed for dismissal of appeal.

12. Heard learned counsel for the parties and perused the record. This Court directed the CMO, Mau to bring the record regarding delayed registration proceedings. Same was made available. Therefore, this Court perused the original record.

13. Instant case is for issuance of Writ under Article 226 of the Constitution of India in the nature of Habeas Corpus. Vide order dated 29/1/2020, learned writ court dismissed the writ petition preferred by the petitioner on the ground that corpus appears to be found Major, while relying upon her date of birth as 6/7/2001, she was sent to her matrimonial home to live with her husband.

14. In the instant case as submitted by learned Govt. Advocate and on close scrutiny, it appears that effect of Section 13 (3) of Act of 1969 vis-a-vis Rules of 1999 are to be seen because in the case in hand, appellant produced birth certificate issued by CMO,

Nagar Panchayat Mau in which date of issuance of certificate is 22/6/2020 in which date of birth of corpus is referred as 2/5/2003, therefore, question arises – whether CMO or for that matter Tahsildar as Executive Magistrate could have issued birth certificate after lapse of 17 years;whereas, jurisdiction as per Section 13 (3) of Act of 1969 lies with Judicial Magistrate only.

15. For the regulation of registration of births and deaths and matters connected therewith, Parliament has enacted the **Registration of Births and Deaths Act, 1969**. Different procedures were prescribed under **Chapter III-Registration of Births and Deaths and Section 13 deals with Delayed Registration of Births and Deaths**. Same is reproduced hereinbelow for ready reference:-

“13.Delayed registration of births and deaths.-(1)

Any birth of which information is given to the Registrar after the expiry of the period specified therefore, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before the notary public or any other officer authorised in this behalf by the State Government.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a

Magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4). The provisions of this section shall without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action.”

16. Certain penalties have also been prescribed under Section 23 of the Act of 1969 to those persons who may fail without any reasonable cause to give information which it is his duty to give under any of the provisions of Sections 8 and 9. He may face imposition of penalty as prescribed. Similarly, power to prosecute (Section 25) and power to compound offences (Section 24) are also provided under the frame work of Act of 1969. Therefore, it is clear that any non-compliance or omission to give information attracts penalties / penal provisions.

17. Act of 1969 gives power to the State Government to make rules as per Section 30 of the Act of 1969. Same bears significance in the set of factual set up of present case. For ready reference Section 30 of the Act of 1969 is reproduced hereinbelow:-

“30. Power to make rules.-(1) The State Government may, with the approval of the Central Government, by notification in the Official Gazette, make rules to carry out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for-

(a) the forms of registers of births and deaths required to be kept under this Act;

(b) the period within which and the form and the manner in which information should be given to the Registrar under section 8'

(c) the period within which and the manner in which births and deaths shall be notified under sub-section (1) of section 10;

(d) the person from whom and the form in which a certificate as to cause of death shall be obtained;

(e) the particulars of which extracts may be given under section 12;

(f) the authority which may grant permission for registration of a birth or death under sub-section (2) of section 13;

(g) the fees payable for registration made under section 13;

(h) the submission of reports by the Chief Registrar under sub-section (4) of section 4;

(i) the search of birth and death registers and the fees payable for such search and for the grant of extracts from the registers;

(j) the forms in which and the intervals at which the returns and the statistical report under section 19 shall be furnished and published;

(k) the custody, production and transfer of the registers and other records kept by Registrars;

(l) The correction of errors and the cancellation of entries in the register of births and deaths;

(m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”

18. If Section 13(3) and 30 (f) (g) are seen in juxtaposition then it makes the legislative intent clear that by Section 13 (3) of the Act of 1969, Parliament has given the authority to Judicial Magistrate First Class (or Presidency Magistrate) to verify the correctness of the birth or death if not registered within one year of its occurrence and understandably so because after one year dispute and discrepancies may occur in respect of date of birth or death of a person.

19. As per Section 15 of **Juvenile Justice (Protection & Care of Children) Act, 2015**; wherein, person above 16 years but below 18 years if commits heinous offence then after due procedure as prescribed may be tried in Children's Court rather than before Juvenile Justice Board. Age of prosecutrix assumes importance in matters of POCSO Act and to avoid all these complications, Section 13 of Act of 1969 provides mechanism for verification of claim regarding correctness of birth or death beyond one year of its occurrence, before the Judicial Magistrate First Class only and not before the Executive Magistrate.

20. Perusal of Section 30 of Act of 1969 reveals that authority / power to make rules to the State Government has been given by the Parliament in respect of Section 13 (2) and in respect of fees payable for registration is made under Section 13. But very specifically, Section 13 (3) is not under the purview of Rule

Making Authority of State Government. In fact, sub-section (2) of Section 30 starts with following words:- “In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for”, therefore, State Government can make rules as per the letter and spirit of Section 30 and 13 (3) of Act of 1969 only and cannot go beyond that.

21. In the State of Madhya Pradesh, in exercise of powers conferred by Section 30 of the act of 1969, State Government made rules namely **M.P. Registration of Births and Deaths Rules, 1999**. Earlier rules with the nomenclature Registration of Births and Deaths M.P. Rules, 1973 were repealed by the Rules of 1999, therefore, at present Rules of 1999 are in existence.

22. Here, Rule 9 is worth consideration because it gives authority for delayed registration and fee payable. Rule 9 of Rules of 1999 is reproduced hereinbelow for ready reference:-

“9. Authority for delayed registration and fee payable therefore.-

(1) Any birth or death of which information is given to the Registrar after the expiry of the period specified in rule 5 but within thirty days of its occurrence, shall be registered on payment of a late fee of rupees two.

(2) Any birth or death of which information is given to the Registrar after thirty days but within one year of its occurrence, shall be registered only with the written permission of the office authorised in this behalf and on payment of a late fee of rupees five and on the officer authorised in this behalf by the State Government.

(3) Any birth or death which has not been

registered within one year of its occurrence, shall be registered only on an order of a Magistrate of the first class or an Executive Magistrate and on payment of a late fee of rupees ten.”

23. Perusal of Rule 9 (3) indicates that with Magistrate of First Class (apparently JMFC), the authority of Executive Magistrate has also been inserted which if is read in consonance with Section 13(3) and Section 30 (2) (f) and (g) of Act of 1969 then it gives an impression that Act no where provides any authority to Executive Magistrate to deal with delayed registration, but Rules included him.

24. Justice G.P.Singh in his book **“Principles of Statutory Interpretation, Tenth Edition, 2006”**, in Chapter 9-**Statutes Affecting Jurisdiction of Courts** in Synopsis 1 (b) at page 689 of the book discusses and quote Willes,J. as under:-

“(b) Three classes of cases

The Legislature being, however, competent to curtail the jurisdiction of civil courts, and to confer the same on any other tribunal or authority, it is only a question of construction of a particular statute whether the same by express words or by necessary implication excludes the jurisdiction of civil courts. The nature of the rights and liabilities dealt with by the statute and the remedies provided thereunder, may, in case of doubt, be taken into account for determining as to how far the jurisdiction of civil courts is excluded. As laid down by Willes.J. and and affirmed by high authorities-

*“There are three classes of cases in which a liability might be established, founded upon statute. One is where there was a liability existing at common law, and that liability is affirmed by a statute which gives a special and peculiar form of remedy different from the remedy which existed at common law; there, unless the statute contains words which expressly or by necessary implication exclude the common law remedy, the party suing has his election to pursue either that or the statutory remedy. The second class of cases is, where the statute gives the right to sue merely, but provides no particular form of remedy; there, the party can only proceed by action at common law. **But there is a third class, viz., where a liability not existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it-The remedy provided by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class”.***

25. In same Chapter and Synopsis at page 692, Justice Singh refers cases came before the House of Lords in the matter of **Barraclough v. Brown (1835-99) ALL ER Rep. 239 (HL)** and **Pyx Granite Co. Ltd. Vs. Ministry of Housing and Local Government, (1959) 3 ALL ER 1** and referred the relevant observations as under:-

“.....LORD WATSON after quoting the enactment observed: “The right and the remedy are given uno flatu and the one cannot be dissociated from the other. By these words the legislature has committed

the summary court exclusive jurisdiction". IN distinguishing this case in Pys Granite Co.'s case LORD JENKINS pointed out that the principle of Barraclough's case applies "where a statute creates a new right which has no existence apart from the statute creating it; and the statute creating the right at the same time prescribes a particular method of enforcing it". Explaining further LORD JENKINS observed: "If A has a right founded entirely on a particular statute to recover a sum of money from B and the statute goes on to provide that the sum in question may be recovered in proceeding of a particular kind, then it is wholly reasonable to impute to the Legislature an intention that the sum in question recoverable solely by virtue of the statute, should be recoverable in proceedings of the kind provided by the statute and not otherwise".

26. Said discussion also finds place extensively in the case of **Premier Automobiles Ltd Vs. Kamlekan Shantaram Wadke, (1976) 1 SCC 496.**

27. From the discussion so made, it is clear that even the provisions of a penalty, for breach of a statutory duty, of fine or imprisonment contained in a Statute creating the duty, may be regarded as the only manner of enforcing the duty.

28. Rule 13(3) in specific terms gives authority to Magistrate of First Class (or a Presidency Magistrate) to exercise authority for delayed registration but nowhere gives any authority to Executive Magistrate. Even otherwise, spirit of Section 13(3) indicates that correctness of birth or death is to be made after due

verification by JMFC and that verification can only be made by way of a judicial proceeding, may be it a summary proceeding, but certainly as per recognized principles of adjudication.

29. JMFC has all the necessary tools including to call witnesses, requisition of record from any public authority, compelling the attendance of officers/witnesses and appreciating the rival submissions and evidence beside other tools of adjudication. Executive Magistrate is not equipped with such adjudicatory tools including the authority as referred above. Therefore, understandably, legislative intent under Section 13(3) was to confer jurisdiction over JMFC only and not otherwise.

30. Careful reading of Section 30 of Act of 1969 if seen in juxtaposition to Section 20 of the General Clauses Act, 1897, it makes the case further clear that State Government could not have framed Rules contrary to the directions contained in Section 30 of Act of 1969. In other words, the Attempt cannot exceed the Authority. Section 20 of General Clauses Act, 1897 is reproduced hereinbelow for ready reference:-

“Section 20. Construction of notifications etc., issued under enactments.- *Where, by any Central Act or regulation, a power to issue any notification, order, scheme, rule, form or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form, or bye-law, if it is made after the commencement of this act, shall unless there is anything repugnant in the subject or context, have the same respective meaning as in the Act or Regulation conferring*

the power.”

31. It appears that concept of incorporation of Executive Magistrate in whole gamut of scheme appears to be after reframing of Cr.P.C. in 1973; wherein, certain powers were given to the Executive Magistrates also but even then, it does not help the cause of appellant or for that matter cause of any Executive Magistrate to entertain cases of delayed registration.

32. Section 3 of Cr.P.C. discusses Construction of References. For ready reference Section 3 of the Cr.P.C. is reproduced hereinbelow:-

“3. Construction of references. - (1) *In this Code,-*
(a) *any reference, without any qualifying words, to a Magistrate shall be construed, unless the context otherwise requires,-*

(i) *In relation to an area outside a metropolitan area, as reference to a Judicial Magistrate;*

(ii) *In relation to a metropolitan area, as a reference to a Metropolitan Magistrate;*

(b) *any reference to a Magistrate of the second class shall, in relation to an area outside a metropolitan area, be construed as a reference to a Judicial Magistrate of the second class, and, in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;*

(c) *any reference to a Magistrate of the first class shall, -*

(i) *in relation to a metro area, be construed as a reference to a Metropolitan Magistrate exercising*

jurisdiction in that area;

(ii) in relation to any other area, be construed as a reference to a Judicial Magistrate of the first class exercising Jurisdiction in that area;

(d) any reference to the Chief Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Chief Metropolitan Magistrate exercising jurisdiction in that area.

(2) In this Code, unless the context otherwise requires, any reference to the Court of a Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Court of the Metropolitan Magistrate for that area.

(3) Unless the context otherwise requires, any reference in any enactment passed before the commencement of this Code, -

(a) to a Magistrate of the first class, shall be construed as a reference to a Judicial Magistrate of the first class;

(b) to a Magistrate of the second class or of the third class, shall be construed as a reference to a Judicial Magistrate of the second class;

(c) to a Presidency Magistrate or Chief Presidency Magistrate, shall be construed as reference, respectively, to a Metropolitan Magistrate of the Cheif Metropolitan Magistrate;

(d) to any area which is included in a metropolitan area, as a reference to such metropolitan area, and any reference to a Magistrate of the first class or of the second class in relation to such area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in such area.

(4) where, under any law, other than this Code, the functions exercisable by a Magistrate relate to matters-

(a) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Code, be exercisable by a Judicial Magistrate; or

(b) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.”

33. Section 3 (4)(a) establishes authority of JMFC in the realm of Section 13(3) of Act of 1969 because appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or any penalty or detention in custody pending investigation etc. is in the domain of Judicial Magistrate only. Here Section 23 of Act of 1969 talks about penalties and any omission or failure on the part of a person as referred in said provision may attract penalty and therefore, delayed registration of births and deaths is a serious business which can only be resolved by way of appropriate proceedings before JMFC because of operation of Section 13(3) of Act of 1969 which involves appreciation / sifting of evidence and use of all the adjudicatory tools to reach to the conclusion. Executive

Magistrate mainly relies upon Affidavits of parties and cursory inquiry by some revenue officer, here and there.

34. Section 3 (3) of Cr.P.C. also contemplates that any reference to a Magistrate of the First Class in any enactment passed before the commencement of Code shall be construed as a reference to a Judicial Magistrate of the First Class. Said subsection starts with the words “**unless the context otherwise requires**”, meaning thereby in normal / general procedure, Magistrate of First Class shall be construed as a reference to a Judicial Magistrate of First Class and if the context in the present controversy is to be seen then in view of the discussion made above, specially in view of the legislative intent, as surfaced in Section 30 of the Act of 1969, it appears that said legislative intent is clear and it does not require the context to be interpreted otherwise. In context of Section 30 and 13(3) of the Act of 1969, Magistrate of First Class shall be construed as a reference to a Judicial Magistrate of First Class as per Code of Criminal Procedure, 1973. On this count also, case of appellant fails.

35. Therefore, legislature rightly kept the involvement of Executives Magistrate out of this purview. In fact, delayed registration may entail serious repercussions; wherein, an adult accused may represent himself as juvenile by manipulation of records and may go scotfree or a Minor victim may be represented as Major to take the accused out of the clutches of POCSO Act etc. and many more ramifications including National Security may crop up..

36. Even otherwise, it is the solemn duty of every citizen to get births and deaths of their near and dear ones registered so that exact population figures available to the Govt. may help the Govt. to formulate policies for welfare of the people. If controversy is seen from this vantage point also, even then delayed registration has wider ramifications.

37. Therefore, in the considered opinion of this Court, the Rules of 1999 framed in exercise of powers conferred under Section 30 of Act of 1969 cannot go beyond what is prescribed in the statute itself.

38. Therefore, the inclusion of Executive Magistrate in Rule 9 of Rules of 1999 needs to be struck down / read down to the extent that delayed registration of births and deaths can only be verified before JMFC of the concerned jurisdiction and Executive Magistrate shall not be allowed to exercise the jurisdiction in respect of delayed registration of births and deaths as per Section 13 (3) of Act of 1969. Accordingly, exercising the inherent and extraordinary powers so vested, we strike down the authority given to Executive Magistrate as per Rule 9 of Rules of 1999 and confines the jurisdiction to a Judicial Magistrate First class in State of Madhya Pradesh.

39. In the present case, Tahsildar conducted a summary enquiry and mainly on the basis of application and affidavit of father of corpus, one Panchnama of some witnesses and school leaving certificate of different schools came to the conclusion of date of birth of corpus as 2/5/2003, which in fact is a sham

proceeding and nonest in the eyes of law. CMO issued birth certificate on the basis of directions given by Tahsildar on 10/6/2020 in the capacity of Executive Magistrate. Therefore, said birth certificate stands quashed and would not be treated as valid birth certificate in the eyes of law.

40. In the cumulative analysis, writ appeal preferred by appellant fails. However, appellant shall be at liberty to move appropriate proceedings in accordance with law for delayed registration of birth of corpus before concerned judicial Magistrate First Class as per Section 13 (3) of the Act of 1969 and in accordance with law, if such remedy is available to him.

41. Before parting, it is made clear that Executive Magistrate in the State Government shall not exercise any jurisdiction in respect of cases of Section 13 (3) of Act of 1969 where non registration of births or deaths exceeds one year of its occurrence. For rest of the provisions including Section 13(1) and (2), proceedings as per the said provisions shall continue. This observation is confined to cases in respect of Section 13 (3) of the Act of 1969 only and not for other provisions of Act of 1969.

42. Resultantly, this Court does not find any infirmity in the impugned order dated 29/1/2020 passed in W.P.No. 1714/2020 by learned Writ Court and same is hereby affirmed.

43. Consequently, appeal fails and is hereby **disposed of** with the aforesaid observations and findings.

44. Registrar General of this Court is directed to place the copy of this order before Hon'ble the Chief Justice to seek

permission for circulation amongst District Judges /District Judiciary. Office of this Court is directed to send a copy of this order to Chief Secretary, Government of Madhya Pradesh to circulate amongst all District Collectors/ District Magistrates for information and to ensure compliance of this order because now onwards Executive Magistrates shall not entertain any application under Section 13 (3) of Registration of Births and Deaths Act, 1969 for authenticity of delayed registration of births and deaths beyond one year of its occurrence.

(Sheel Nagu)
Judge

(Anand Pathak)
Judge

jps/-