

Committee for Legal Aid to Poor

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. S.H. KAPADIA HON'BLE MR. JUSTICE K.S.
RADHAKRISHNAN HON'BLE MR. JUSTICE SWATANTER KUMAR

Committee for Legal Aid to Poor v. Union of India & Others

Writ Petition (Civil) No. 37 Of 2009 | 20-09-2010

1. This writ petition has been filed by an NGO making a grievance that Registration of Births in India is at a low level and that very few children are provided with Birth Certificates and that the provisions of Registration of Births and Death Act, 1969 (hereinafter referred to As ' 1969 Act ') are not being implemented.
2. Under Section 3 of 1969 Act, the Central Government is required to appoint a Registrar General and such other officers to coordinate and unify the activities of the Chief Registrars of the States and submit an annual report to the Central Government on the working of the 1969 Act.
3. The main grievance of the writ petitioner is that relevant provisions of 1969 Act are not being implemented.
4. Today, when the matter came up for hearing, learned counsel, appearing on both sides, submitted before us by consent Minutes of the Order. The said Minutes are taken on record and marked " X " .
5. In terms of the said Minutes we direct the States/Union Territories to appoint full time Chief Registrars. That; States/Union Territories will submit their Reports annually, as required under the provisions of 1969 Act. That; States/Union Territories are directed to notify all Panchayats and Institutional Delivery Centers such as Hospitals, Nursing Homes, CHCs, PHCs and others as Local Registration Centres under Section 7(1) of the Act. That; all States/Union Territories are directed to notify ASHAs, Aanganwadi workers, Dai ' s and Headmasters of Government schools under Section 10 of 1969 Act. That; States/ Union Territories are directed to switchover to the uniform format for Birth Certificates, as suggested by the Registrar General with National Emblem on the said Certificates.
6. The above directions have been given in terms of the Consent Minutes of Order.

7. Accordingly, the writ petition stands disposed of in terms of the consent Minutes of the Order.

MINUTES OF THE ORDER

Background

1 This petition has been filed by an NGO making a grievance that the Registration of Births in India is at a low level and that very few children are provided with birth certificates and this is due to the poor implementation of the Registration of Births & Deaths Act, 1969. Notice was issued on 6.2.2009. Thereafter, the Registrar General of India and the Petitioners had a productive meeting in which the critical issues were discussed at length.

2 India is signatory to the UN Convention on the Rights of the Child, 1989 which states in Article 7 that “ the child shall be registered immediately after birth ”. Similarly, the National Population Policy, 2000 has set a goal of achieving 100% registrations of birth by 2010.

1969

3 The statute was enacted and came into force on 31.5.1969. Under Section 3, the Central Government is required to appoint the Registrar General, India and such other officers under his superintendence. The Registrar General is also required to coordinate and unify the activities of the Chief Registrars of the states and submit an annual report to the Central Government on the working of the Act. The relevant Sections for the purpose of this petition are set out hereafter. Under Section 4, the state governments are required to appoint Chief Registrars for the state and other officers who will work under the superintendence of the Chief Registrar. Under Sections 6 and 7, the state government may appoint a District Registrar and Registrars for local areas respectively such as a municipality, panchayat or other local authority Sections 8 to 10 describes the persons who are duty bound to provide information to the registrar regarding births and deaths Section 11 requires a register to be maintained in which entries are made. Section 12 provides for an extract of prescribed particulars from the Register relating to birth or death (commonly referred to as the birth certificate) to be given free of charge to the informant if the information is given within 21 days of the birth or death. Section 13 deals with delayed registration of births and deaths on payment of a late fee where the information is given to the registrar after 21 days but within 30 days of birth and deaths. If the information is given after 30 days but within one year, a late fee is to be paid along with an affidavit. After one year, the birth as well as the death is registered only on an order made by the First Class Magistrate/Executive Magistrate. In all

such delayed registration cases, the extract of prescribed particulars from the Register relating to birth or death is to be given in format. Model Registration of Births and Deaths Rules, 1999 made under Section 30 of the Act have been provided to all the States/UTs and based on which the states have framed the State Rules.

Status of Birth Registration

4 The office of the Registrar General, India has published a Special Report 2002-2005 in which the level of registration of births in the country is shown at about 68%. This is way behind the target of 100% which was to be achieved this year. Perusing the data state- wise, it is observed that a few states with a large population are performing very poorly. These are Bihar (16.9% I) Jharkhand (37%). The reporting efficiency also varies from state to state and the picture in respect of some of the poor performing states is quite disturbing. Even the quality of data emanating from some of the states suffers from infirmities. The states are submitting their reports after a delay of 2-3 years and U.P. apparently has not submitted reports since 1996. Some of the states are not furnishing complete reports.

5 Although there is some dispute over the National Family Health Survey (NFHS-III) data for 2005-2006, it is important to set out the figures hereinafter:

State

Birth Registration Rate

Birth Certification Rate

Andhra Pradesh

38.60%

21.00%

Arunchal Pradesh

30.80%

25.60%

Bihar

6.20%

3.00%

Chatisgarh

73.90%

14.20%

Goa

93.00%

76.00%

Haryana

72.30%

46.00%

Himachal Pradesh

87.40%

44.40%

Karnataka

58.30%

48.70%

Maharashtra

79.90%

44.30%

Manipur

30.50%

12.00%

Orissa

58.30%

17.50%

Sikkim

82.40%

65.00%

Tamil Nadu

85.30%

67.00%

Uttarkhand

39.00%

17.00%

Uttar Pradesh

6.80%

West Bengal

72.80%

55.30%

6 According to NFHS-III at the all India level, the birth registration rate is 41% among children below 2 years. Only 15% of the registered children were provided with birth certificates. Birth registration among children under 5 years stood at 7.1% in UP. 16.4% in Rajasthan, 5.8% in Bihar, 9.1% in Jharkhand 29.7% in Madhya Pradesh and 40.3% in Andhra Pradesh. Turning to the number of registration centers population-wise it appears that the states of Assam, Bihar, Chhattisgarh, Haryana, Jammu & Kashmir, Jharkhand, Kerala, Manipur, Meghalaya, Orissa, Rajasthan, Sikkim, West Bengal, Delhi have less registration units than the national average of one registration center per 2944 population (rural) and one

registration center per 65548 population (urban). Low performance in some of these states may be attributed to lack of easy access to the registration centers. Directions are therefore sought to the low performing and stagnating states like Assam, Bihar, Chhattisgarh, Jammu & Kashmir, Jharkhand, Manipur, Meghalaya, Orissa and West Bengal to review the existing number of registration centers and increase their numbers.

7 A perusal of the centers that have been notified as registration centers under the Act indicates that the trend is towards notifying such centers as are easily accessible to the people particularly those who are poor and marginalized and in the remote and rural areas. Hence, PHCs, CHCs, village panchayats, institutions such as hospitals and nursing homes, government schools and the like have been notified.

8 Similarly, the notifying authorities under Section 10 of the Act are in the process of being diversifying in the many states to include the Aanganwadi workers, the auxiliary nurse midwives (ANMs), the Ashas under NRHM and even the Dais. The States/UTs have been requested to direct these classes of persons in not only getting the reporting forms filled in respect of the domiciliary births/deaths occurring in their area, pass the same on to the Registrar but also deliver the certificate to the household. The States/UTs have also been directed that wherever the facility of delivery of the birth certificate to the mother of the new born child before her discharge from the medical institution or delivery of the death certificate to the family of the deceased is not available in the medical institution, the medical institution may obtain a self-addressed stamped envelope from the informant and have the same forwarded along with the filled-in reporting form for registering the event and dispatch of the certificate utilizing the self-addressed stamped envelope.

9 The lack of uniformity in the birth certificate format has resulted in much confusion in that each state has its own format with emblems. The Registrar General has taken proactive steps in this regard by circulating a common format for all the 13 forms including birth certificate format and all the States except Madhya Pradesh, Chhattisgarh, Orissa and Lakshadweep have switched over to the recommended common formats. Madhya Pradesh and Chhattisgarh would switch over to the Standardized format from 1.1.2011. As regards Orissa, the issue is pending with the State Government. It has also been suggested that this format of the certificate should have the national emblem.

10 Due to concerted efforts taken by the Registrar General, India and the Chief Registrars in certain states it is reported that several states such as Rajasthan and Madhya Pradesh that were lagging far behind have now considerably improved together with other states they (sic) are responding positively. Hence, the situation today may not be as bleak as reports made on the basis of NFHS-III. With the important changes being contemplated regarding the mode and manner of the filling up of birth registration forms and the handing over of delivery certificates to the parents of the child as discussed in above paragraphs, the situation is likely

to improve further. Besides, steps are also being taken by the Registrar General to ensure the registration of birth of street children.

Late registration procedures cumbersome

11 Some of the problems faced by parents of children and other informants is that the late registration procedure currently in place (requiring payment through treasury challans and the making of affidavits and the obtaining of magistrate orders) slowed down the process of registration.

12 It is learnt by the petitioner though this information could not be confirmed that government proposes to amend the Act to substantially relax the late registration procedures and to bring about other changes to, inter alia, push up the level of registration of births and the prompt issuance of birth certificates. If such an amendment is done, it would go a long way towards the full implementation of the statute.

Registrars holding additional charge

13 Another problem faced of the serious nature relates to the Registrars appointed at the state, district and local areas. They are invariably civil servants who are already holding charge of onerous posts and are given additional charge of the post of Chief Registrars, District Registrars, Registrars/Sub-Registrars etc. under the Act. They were already fully burdened with their existing responsibilities when they were given additional charge as Registrars under this Act. It is therefore imperative that the Chief Registrar in the State holds exclusive charge to do justice to the responsibilities of the post. Similarly, the District Registrars as far as possible be given exclusive charge if the objective of 100% registration of births is to be achieved.

Posts lying vacant

14 Another difficulty faced relates to large number of posts lying vacant in the office of Chief Registrar and also at District Registrars/Local Registrars. In Uttar Pradesh for example, the entire work is being managed by one official. It is therefore important that the posts sanctioned for the purpose and lying vacant be filled immediately.

15 The Registrar General and Union of India have informed this Court that amendments are proposed to be carried out in the Act and the same will be tabled in the coming session of the parliament and that these will go a long way towards improving the enforcement of this Act.

Directions Sought

- a. For an order directing the States/UTs, to appoint fulltime Chief Registrars exclusively to perform their statutory duties under this Act.
- b. For an order directing the State/UTs to submit their reports under Sections 4(4) and 19(2) of the Act every year and on time to the Registrar General, India
- c. For an order directing all States/UTs to notify all panchayats and institutional delivery centers such as hospitals, nursing homes, CHCs, PHCs and if required government schools also as local registration centers under 7(1) of the Act.
- d. For an order directing all States/UTs to notify classes of persons such as ASHAs, Aanganwadi workers, Dai ' s, headmasters of government schools and others as notifiers under 10 of the Act and to authorize them to deliver birth certificates under Section 12 of the Act.
- e. For an order directing all States/UTs to forthwith switchover to the uniform format for the birth certificate as issued by the Registrar General with the national emblem on the said certificates.
- f. For an order directing all States/UTs to disclose to the Registrar General the posts lying vacant under the Act and to fill said posts within 3 months from today.
- g. For an order directing to the low performing and stagnating states like Assam, Bihar, Chhattisgarh, Jammu & Kashmir, Jharkhand, Manipur, Meghalaya, Orissa and West Bengal to review the existing number of registration centers and increase their numbers. The other States/UTs may also be directed to review the number of registration centers and if required, increase the number of registration centers.