



2026:AHC:112844-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 13812 of 2026

Naval Kishore Srivastava

.....Petitioner(s)

Versus

State of U.P. and 6 others

.....Respondent(s)

Counsel for Petitioner(s) : Rajesh Kumar Srivastava
Counsel for Respondent(s) : Abhishek Kumar Yadav, C.S.C.,
Vineet Sankalp

AFR

Reserved on:20.04.2026

Delivered on:15.05.2026

Court No. - 2

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE VIVEK SARAN, J.**

Per: Hon'ble Vivek Saran, J.

1. Heard Sri Rajesh Kumar Srivastava, learned counsel for the petitioner, Sri Abhishek Kumar Yadav, learned counsel for the respondent nos.2, 3 and 4 and learned Standing Counsel for the State

2. The instant petition has been filed with the following relief(s):

"1. Issue a Writ, Order or direction in the nature of writ of mandamus commanding The Registrar (Birth-Death), Nagar

Nigam, Varanasi to issue Death Certificate of late Madhuri Srivastava wife of Naval Kishore Srivastava who died on 25.01.2001 in House No.4/767 Old Ram Nagar, Varanasi.

II. Issue a Writ, Order or direction in the nature of writ of mandamus commanding Respondents Authorities to conduct an enquiry within a stipulated period by inviting objections from the Family Members Shri Shayam Narain Srivastava s/o Late Professor Gauri Shanker Srivastava aged about 80 years, Sri Gyan Prakash Srivastava who are real brothers of Late Madhuri Srivastava and Mr. Kamal Kishore Srivastava s/o Late Madhuri Srivastava through News Paper Publication or any other Mode if any deem fit and proper the the cost of petitioner.

III. Issue a Writ, Order or direction as this Hon'ble Court may deem fit & proper in the facts & circumstances of this case.

IV. Award the cost of this case from the contesting Respondents."

3. The brief facts of the case as narrated in the writ petition are that the petitioner was married to one Madhuri Srivastava in the year 1962, who according to the petitioner left him in the year 1962 itself, to her maternal house in Bareilly, never to return and where she had a male child. The petitioner filed a divorce suit in the year 1970 which was rejected and the appeal so preferred was dismissed in the year 1974. However, the petitioner was never in touch with his wife, Madhuri Srivastava. However as per the order of Court, the petitioner gave his half salary to Madhuri Srivastava w.e.f. 1975 to 1985. He took voluntary retirement on 05.05.1985 from the post of Squadron Leader, Indian Air Force. However, subsequently Madhuri Srivastava was never provided any contribution from the petitioner's pension. The petitioner states that Madhuri Srivastava died on 25.01.2001 while residing at her parent's house at Ram Nagar, Varanasi. The petitioner married one

Meera Srivastava in year 2001 itself. However, name of Meera Srivastava (the second wife), could not be entered into the service records and in the same name of Madhuri Srivastava (first wife) continued. In the year 2011 the petitioners applied for deletion of name of Madhuri Srivastava and for substitution of Smt. Meera Srivastava as his legally wedded wife. Thereafter the petitioner while filling up form on attaining 80 years of age on 05.03.2016 disclosed the name of his spouse as Meena Srivastava and upon which a letter dated 30.03.2016 was issued by the Directorate of Air Veterans, Air HQ (SP), New Delhi requiring the petitioner to furnish the details of the family which included copy of marriage certificate and death certificate or decision of the Court granting divorce.

4. Learned counsel for the petitioner submits that as his first wife Late Madhuri Srivastava has left him in the year 1962, he is having no contact with her or with his son, Sri Kamal Krishna Srivastava, born out of wedlock. Recently he did tried to get in touch with his son Sri Kamal Krishna Srivastava but after few interaction he stopped responding. Thus the petitioner is not having any document regarding death of Madhuri Srivastava. He further submits that the petitioner had tried to procure documents of treatment of Late Madhuri Srivastava from the Chief Medical Superintendent Lal Bahadur Shastri Hospital,

Varanasi vide his letter dated 18.03.2025 but to no avail. He further submits that similar other efforts also failed. The petitioner thereafter was able to procure a death certificate dated 17.03.2025 from the local Parshad (Councilor) of Ward No.65, Purana Ram Nagar, Nagar Nigam Varanasi, ascertaining date of death of Late Madhuri Srivastava as 25.01.2001. He submits that as the local Councilor/Sabhasad has certified the date of death of late Madhuri Srivastava thus a direction to the Registrar be issued for issuance of death certificate.

5. *Per contra*, learned counsel representing the Nagar Nigam and the State Authorities have submitted a death certificate is issued under the provisions of **the Registration of Birth and Death Act, 1969** (hereinafter referred to as 'the Act') and under which the State of U.P. have framed Rules being **The Uttar Pradesh Registration of Birth and Death Rules, 2002** (hereinafter referred to as 'the Rules') and under the said Rules the petitioner has to seek an order from the Sub-Divisional Magistrate concerned. They also pointed out that the petitioner had approached the Sub-Divisional Magistrate concerned but the outcome has not been stated in the petition, therefore the presumption of pendency of proceedings can be safely drawn. They also stated that on the letter dated

17.03.2025 of the petitioner the Zonal Officer had issued a letter requiring the petitioner to profile certain documents which as per pleadings petitioner has not provided. So it is the petitioner who is at fault. Since the petitioner has failed to get the statutory requirement fulfilled, no direction has prayed for in the instant writ petition can be granted.

6. Heard learned counsel for the parties and perused the record.

7. It is not in dispute that a death certificate is issued under the provisions of the Section 13 of Act and in case of delayed registration of births and deaths, Section 13 of the Act which reads as under:

“13. Delayed registration of births and deaths.—(1) Any birth or death of which information is given to the Registrar after the expiry of the period specified therefor, 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 a 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 varifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall be 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.”

8. The State Government in exercise of power under Section 13 of the Act have framed the Rules and Rule 9 (3) of the Rules provides that in case of any registration of death beyond the period of one year, the same shall be carried out on the order of the Sub-Divisional Magistrate and payment of late fee of Rs.10/-. Rule 9 of the aforesaid Rules provides as under:

“9. Authority for delayed registration under Sec. 13 and fee payable therefor.-(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 Additional District Registrar (Deputy Chief Medical Officer for Urban Areas and District Panchayat Raj Officer for Rural Areas) and on payment of a late fee of rupees five.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order of Sub-Divisional Magistrate and on payment of late fee of rupees ten.”

9. Thus under 9(3) of the Rules it is mandatory for a person to obtain an order from the concerned Sub-Divisional Magistrate for issuance of death certificate, if the registration of death has not been done within a year and thereafter on completion of other requisite formalities.

10. As the petitioner states to have approached Sub-Divisional Magistrate, Sadar, Varanasi n 17.03.2025 for issuance of

death certificate, copy of the said application is enclosed as Annexure-4 to the petition, but as the petitioner has not disclosed its outcome, thus the only presumption is that there is no order from the concerned Sub-Divisional Magistrate for issuance of a death certificate of Late Madhuri Srivastava.

11. Under such circumstances this Court is of the considered opinion that the petitioner as on date do not fulfil the statutory requirement for issuance of death certificate of late Madhuri Srivastava.

12. The petitioner has also moved an application before the Nagar Nigam, Varanasi on 17.03.2025 for issuance of death certificate and has also paid certain amount. In response thereof the Zonal Officer, Ram Nagar Zone, Nagar Nigam, Varanasi vide its communication dated nil, filed as Annexure-13 to the writ petition has required the petitioner to furnish certain documents. It is also unclear as to whether the petitioner ever provided the same or as to what was its outcome.

13. With regards to the death certificate dated 17.03.2025 issued by Raj Kumar Yadav, Parshad, Ward No.65, Purana Ram Nagar, Nagar Nigam, Varanasi certifying death of Madhuri Srivastava on 25.01.2001 or a self declaration of the petitioner dated 17.03.2025 both are of no consequence.

Under the Act it is the Sub Divisional Magistrate alone who is empowered to pass an order and admittedly, the petitioner does not have an order from the concerned Sub-Divisional Magistrate for issuance of a death certificate of Late Madhuri Srivastava.

14. Even in the order dated 22.09.2025 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.807 of 2025 while dismissing the writ petition liberty was given to the petitioner to approach the appropriate forum.

15. As the petitioner had approached the Sub-Divisional Magistrate concerned under Section 13 of the Act, any direction straight away to the Registrar for issuance of death certificate of late Madhuri Srivastava would be amounting to circumventing the statutory requirement which would be defeating the purpose of the Act in procuring relevant documents of death of late Madhuri Srivastava. Any inability or inconvenience of the petitioner as submitted by learned counsel for the petitioner can also not be any ground for bypassing the statutory remedy.

16. It is also to be kept in mind that in absence of any evidence of death of Madhuri Srivastava any direction to the Registrar straight away would be amounting to extinguishing the existence of a person.

17. As noted above, the petitioner has taken recourse to the statutory provision by moving application before the concerned Authority/Sub-Divisional Magistrate, which he may continue to pursue.

18. In view of the aforesaid discussion this Court finds that the petition is misconceived and is accordingly, **dismissed**.

19. No order as to costs.

(Vivek Saran,J.) (Atul Sreedharan,J.)

May 15, 2026
Deepika