

**CIRCULAR**

The Hon'ble High Court in W.P.No.24069/2023 c/w 20106/2023, W.P.No.24082/2023 vide order dated 07.12.2023 has passed the following order:

*“This Court on 02.11.2023 had passed the following order:*

*“.....Both the learned Senior counsel would in unison by taking this Court through the documents appended to the petition would seek to demonstrate that the Union of India has lost sight of the fact that the executive Magistrate to whom the power is now conferred under Section 13(3) by the amending act has no judicial powers of conduct of an enquiry as envisaged under the Cr.P.C. The counsel would specifically rely on Sections 3, 4 and 5 of the Cr.P.C. The power that is conferred in the Cr.P.C. qua the executive Magistrate is only under Chapter 10 and 11, which deals with maintenance of Public Order and Tranquility.*

*The matter would require consideration as the amending Act is called in question, it would require statement of objections at the hands of the Union of India. Since there is chaos, at this juncture, with regard to the pending applications and the consideration of the applications that are filed before the learned Magistrate under Section 13(3), now I deem it appropriate to grant an interim order of stay of the operation of the amending Act insofar as it concerns the challenge in the subject petition*

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*i.e. Section 13(3), till the Union of India files its statement of objections or till the next date of hearing, whichever is earlier...”*

Further, in continuation, the Hon’ble Court in the aforesaid case has passed the following order on 07.12.2023 as follows:

*“.....The amendment to Section 13(3) of the Registration of Births and Deaths Act (‘Act’ for short) stood stayed by the aforesaid order. Despite grant of an interim order, the Assistant Commissioner appears to have issued certain notices invoking power under Section 13(3) of the Act which this Court had granted stay of. Therefore, the Assistant Commissioner cannot and shall not overreach the interim order passed by this Court, unless it is so directed or so modified.*

*Learned senior counsel Sri. Vivek Reddy and learned senior counsel Sri.P.P.Hegde would in unison submit that in the light of these communications by the Assistant Commissioner, the learned Magistrate/Judicial Authority is not taking up the matters concerning issuance of certificates under the Births and Deaths across the State which is causing gave prejudice to the citizens. Therefore, it is made clear that the amendment to Section 13(3) of the Act has been stayed and in the light of the stay granted, status quo ante, albeit, for a temporary period during the pendency of the petition is restored. Therefore, learned Magistrate/Judicial Authority shall not decline to entertain the application of the citizens under the Act and the Assistant Commissioner shall not invoke his jurisdiction under Section 13(3) of the Act, on the strength of the amendment that has stood stayed, as on today.*

*The learned DSGI Sri.H.Shanthi Bhushan seeks four weeks time to file statement of objections.*

*List the matters after four weeks.*

Contd..3

*This order shall be communicated to all the concerned judicial authorities by the Registry."*

Hence, as directed, all the Trial Courts/ Judicial Magistrate of First Class dealing with petitions under Section 13(3) of the Births and Deaths Act shall continue to entertain the application of the citizens under the said Act and dispose of such petitions on its merits till further orders, since the Amendment Act No.20/2023 is stayed by the Hon'ble High Court in the aforesaid cases. Any lapse in this regard will be viewed seriously.

**BY ORDER OF HON'BLE THE CHIEF JUSTICE**

Sd/-  
**REGISTRAR (JUDICIAL)**

**To:**

1. The P.A. to Hon'ble The Chief Justice
2. The Registrar General/ Registrar (Vigilance)/ Registrar (Recruitment) / Registrar (Administration)/ Registrar (Infra & Maintenance) / Registrar (Protocol & Hospitality) / Registrar (Computers).
3. The Additional Registrar General/ Additional Registrar (Judicial), High Court of Karnataka at Dharwad and Kalaburagi Benches, for information.
4. The Central Project Co-ordinator (CPC), with a request to web-host the circular.
5. The Assistant Registrar and Section Officer of DJA-I to circulate the circular to all the Courts/JMFC through the respective Principal District and Sessions Judges and Unit Heads.
6. Office Copy.