

No. 1/14/87-VS (cord)
Government of India,
Ministry of Home Affairs,
Office of the Registrar General, India.
(Vital Statistics Division)
West Block-1,R.K.Puram,New Delhi-110066.

Dated:- 13.11.91

To
The Chief Registrars of Births & deaths of
All States/Union Territories.

Sub- Rank of Executive Magistrate for the purpose of Section 13 (3) of the
Registration of Births & Deaths Act, 1969 - Clarification-regarding

The matter relating to rank of the Executive Magistrate for the purpose of Section 13 (3) of the Registration of Births & Deaths Act, 1969 was re- examined at appropriate level in the context of identical references received from the Chief Registrars of Maharashtra and Karnataka and it is held that Magistrate of the 1st Class or a Presidency Magistrate occurring under Section 13 (3) of the RBD Act, 1969 is creating doubts in the administration of the above Act after the revision and enactment of the Code of Criminal Procedure, 1973 which came into force on the 1st April, 1974. Under the Code of Criminal Procedure, 1973 there shall be in every State the following classes of Criminal Courts, namely:

- (i) Courts of Session;
- (ii) Judicial Magistrates of the First Class and, in any metropolitan area, Metropolitan Magistrate;
- (iii) Judicial Magistrate of the Second Class; and
- (iv) Executive Magistrates.

These Courts shall be in addition to High Courts and the Courts constituted under any law other than the Code of Criminal Procedure.

2. In case of delayed registration of births and deaths within the meaning of the provisions under Section 13 (3) of RBD Act, 1969 the matters are admittedly to be administrative or executive in nature and are therefore exercisable by the Executive Magistrate in terms of Section 3 (4) under the Code of Criminal

Procedure, 1973. Under the Criminal Procedure Code, 1973 the functions exercisable by Magistrate related 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 supervision or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.
3. Keeping in view the executive functions dischargeable under the provisions of Section 13 (3) of RBD Act, 1969 the role of Executive Magistrate has become important consequential to the revision of Code of Criminal Procedure 1973.
4. In view of what has been stated above, the functions under Ss. 13 (3) of the RBD Act, 1969 are exercisable by any Executive Magistrate.

Yours faithfully

Sd/-

Deputy Director of Census Operations