

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 18.07.2025
DELIVERED ON: 18.07.2025

PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH

WPA 11486 OF 2025

ATREYI BHATTACHARYA

VERSUS

REGISTRAR OF BIRTHS AND DEATH,
CHANDERNAGORE MUNICIPAL CORPORATION & ORS.

Appearance:-

Mr. V.V.V. Sastry, Adv.
Mr. Anirudh Goyal, Adv.

.....For the Petitioner

Mr. Suman Basu, Adv.

..... for the Corporation

Mr. Debanjan Bhattacharjee, Adv.
Mr. Samik Chatterjee, Adv.
Mr. S Mahapatra, Adv.

.....for Respondent No. 3

JUDGMENT

Gaurang Kanth, J. :-

1. The petitioner, a minor represented through her mother and natural guardian, has preferred the present writ petition being aggrieved by the communication dated 5.5.2025, whereby her application dated 17.2.2025, seeking change of her surname from 'Chatterjee' to 'Bhattacharya' was rejected by the respondent municipality.

2. It is the case of the petitioner that she was born on 14.4.2011 to Mr. Prasenjit Chatterjee and Ms. Kasturi Chatterjee during the subsistence of their wedlock. A birth certificate was issued by the municipality. The petitioner is presently a student of class IX. Following matrimonial discord between her parents, she has been residing with her mother at her maternal grand-parent's residence. The marriage between the parties was subsequently dissolved by a decree of divorce dated 13.5.2015. Post divorce, both the petitioner and her mother adopted the surname 'Bhattacharya' in place of 'Chatterjee'. Consequently, in certain documents, the petitioner's surname is recorded as 'Bhattacharya', whereas in others it continues to appear as 'Chatterjee'.

3. The petitioner submits that desiring not to retain her father's surname, the petitioner submitted an application dated 17.2.2025 before the respondent corporation, seeking correction of her surname in the birth certificate. However, the said application was rejected by the respondent corporation by a communication dated 5.5.2025, citing the reason that such a change of surname in the birth certificate is not permissible merely on account of change of marital status of the parents.

4. Since the petitioner is a minor girl, aged about 14 years and that her father was initially not impleaded as a party to the present proceeding, this court directed the petitioner to implead her father as a party to the present proceeding. Accordingly, Mr. Prasenjit Chatterjee, the father of the petitioner was made as a party to the proceeding.

5. Learned counsel for the petitioner has effected service upon Mr. Prasenjit Chatterjee by Speed Post on 04.07.2025 at his last known address, as well as through publication in two newspapers, namely '*The Times of India*' and '*Ei*

Samay'. Copies of the said publications have been filed on record, thereby evidencing service upon the respondent-father

6. In view of such publication this court deems service to be complete on the respondent father.

7. Learned Counsel for the Respondent submits that as per Section 15 of the Registration of Births and Deaths Act, 1969 and upon the guidelines issued by the Government of India, Ministry of Home Affairs dated December 29, 2014, which mention that once the name of the child is entered in the birth certificate, it cannot be changed.

8. Learned counsel for the petitioner submits that section 15 does not an absolute bar and that a co-ordinate Bench of this court, in a similarly situated case, has directed for correction of the birth certificate. Learned counsel for the petitioner relies on the judgment passed by the coordinate bench of this court in WPA 88 of 2023 titled as ***Arpita Chowdhary V. Nabadwip Municipality & Anr.***

9. This court has heard arguments advanced by the parties and examined the documents placed on record.

10. Upon careful perusal of the records, it transpires that the petitioner is a minor girl aged about 14 years and is currently studying in class IX, and has been residing with her mother since birth. The marriage between her biological parents were dissolved by a decree of divorce passed by the competent court on 13.5.2015. Following the said dissolution of marriage, both the petitioner and her mother in order to align their identities and in exercise of their personal liberty, adopted the surname 'Bhattacharya' in place of 'Chatterjee'.

11. It is submitted that pursuant to this change, the petitioner's surname has already been updated in various official documents such as AADHAR card, passport and other documents. However, in certain other records, including her

school record and her birth certificate, her earlier surname 'Chatterjee' continues to appear, resulting in inconsistency and causing potential administrative difficulties.

12. It is the specific grievance of the petitioner that she does not wish to retain or be identified by the surname of her biological father owing to personal and emotional reasons. She seeks to have her identity consistently recorded in all official documents with the surname 'Bhattacharya', which she has been using ever since the decree of divorce, and which is also the surname of her mother with whom she has been permanently residing.

13. The petitioner asserts that this change is not only necessary for maintaining consistency in records but also crucial for safeguarding her emotional wellbeing and personal sense of identity.

14. This court, in similar situation, has considered and allowed the prayer for change of surname of a minor. In WPA 88 of 2023, vide order dated 29.2.2024, a co-ordinate Bench of this court permitted the change of surname of a minor from that of her biological father to that of her step father, keeping in view the best interest and welfare of the child. The relevant extracts from the said decision are as follows:

"I have heard and have given my thoughtful consideration to the submissions made on behalf of all the parties and have perused the materials placed before this Court.

It appears that the child is presently remaining with the petitioner who is her mother and with the step father. The child is of very tender age and is yet to understand the difference or the concept of a biological father and a step father. The child has all along known and accepted the present husband of the petitioner as father.

Birth certificate of an individual is a very important document in life. The same is an evidence of one's birth and lineage. It also acts as a proof of one's age, identity and citizenship. Various

uncomfortable questions may arise in one's mind when the individual becomes mature and notices that the name of a different person is recorded as his/her father. The same may lead to further complications in future and may also result in breakdown of relationships.

The previous marriage of the petitioner stood legally dissolved and the child has been gracefully and unconditionally accepted by the present husband of the petitioner. Though the law relied upon by the Municipality imposes a bar to change of entries in the birth certificate but it cannot be lost sight of the fact that the same is a very archaic Act. When the said Act was conceptualized and it came into effect, incidents of such nature was not anticipated. Stringent and rigid provision of the Act highlights and signifies the importance of a birth certificate. The document is taken as sacrosanct. The very identity of an individual changes with alteration of the details mentioned therein.

True it is. At the same time one cannot deny the fact that with advancement of time there has been a sea change in marital relationship of parties. With awareness of law and financial independence many of the parties are no longer interested to continue with unhappy and unworkable relationship. They choose to dissolve the relationship and move on, however, the baggage of the relationship may pose sticky problems and at time interferes with the privacy of the parties. Law has to be dynamic and ought to evolve to tackle such issues. One cannot be hyper technical while dealing with personal issues with hardly any public law element involved.

There is a provision in the Act to correct or cancel entry in the register if the same is found to be erroneous in form or subject. It is not that there is absolute total bar to rectify errors. With the change in circumstances, the entry in respect of the father of the minor child has to be taken as improper and liable to be rectified and the records are to be corrected. If the necessary alteration is not done, then the child and her parents may have to face several embarrassing situations in future. Every individual has the right to live with dignity and honour.

It is noted that it is not always necessary to delete the details of the biological parents from the birth certificate and it is alright if the parties agree to retain the details mentioned therein, but if a request is made to effect changes in the register, then such request is to be

considered upon application of mind depending upon the facts and circumstances of the case. Law cannot be so rigid so as not to take within its fold the changing need of time. Law is to be applied in the best interest of the parties.

The Hon'ble Supreme Court in the matter of ABC (supra) directed the Municipality to issue birth certificate by incorporating the name of the present husband of the petitioner as the father of the minor child and further directed the surname of the minor child to be replaced with the surname of her present father relying upon an affidavit to be sworn by the mother.

In the matter of Mirunadevi the Court directed the Corporation to issue revised birth certificate by incorporating the name of the step father of the child.

The petitioner herein has already affirmed an affidavit and filed the same before the Municipality mentioning the changes that she intends to incorporate in the birth certificate of the minor child. Keeping in mind the best interest of the child and in line with the decisions mentioned herein above, the Municipality is directed to issue fresh birth certificate in the name of the child by incorporating the name and surname of the step father and incorporating the surname of the step father as the surname of the child at the earliest, but positively within a period of two weeks from the date of communication of this order.

It is made clear that with the deletion of the name and surname of the biological father, the rights of the child to the property of the biological father will not be extinguished and the same will remain intact for all times to come."

15. This decision underscores the principle that the identity of a child, including her surname is an integral part of her personal development and autonomy. Courts have consistently held that when the change in name or surname does not adversely affect any legal or statutory right of a third party and is sought in furtherance of the child's best interest, such change ought to be allowed.

16. In light of the above facts and the applicable legal position and having regard to the welfare of the minor child, which is of paramount consideration, this court is of the view that prayer of the petitioner deserves to be allowed.

17. Accordingly, the respondent corporation is directed to issue a fresh birth certificate in respect of the petitioner by substituting her surname from 'Chatterjee' to 'Bhattacharya' and by recording her name in conformity with the identity adopted post the decree of divorce of her parents. The said action shall be completed by the respondent corporation positively within a period of four weeks from the date of communication of this order.

18. It is, however, made clear that such change of surname and the consequential removal of the surname of the biological father from the birth certificate and other official records shall not, in any manner whatsoever, affect the legal status of the biological father as her natural guardian under any law, nor shall it affect or extinguish the petitioner's legitimate rights if any, including her succession and inheritance rights to the property of her biological father. All such rights shall continue to remain preserved and unaffected by this order, in accordance with law.

19. With the above observations, the present writ petition is disposed of.

20. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Gaurang Kanth, J.)