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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10866/2016 & CM APPL. 42575/2016

SACHIN TANEJA

..... Petitioner

Through: Mr Prosenjeet Banerjee, Advocate.
versus

GOVERNMENT OF NATIONAL
CAPITAL TERRITORY OF DELHI
AND ORS

..... Respondents

Through: Ms Prabhsahay Kaur with Mr
Amarlal Banjara, Advocates for R-
1/GNCTD.
Mr Jitendra Kumar Tripathi, Mr
Vipul Agrawal and Mr Anshuman
Nayak, Advocates for R-2 and R-3.
Mr Anshul Duggal and Mr Sahil
Modi, Advocates for R-4 for Ms
Geeta Luthra, Sr. Advocate with Mr
Atlamish Siddiki, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **30.04.2019**

1. The petitioner has filed the present petition, *inter alia*, impugning the Gazette Notification – Notification No.41 dated Saturday, October 11 to October 17, 2014 Part IV. The petitioner is aggrieved by the said Notification as it publishes a declaration regarding the surname of the two children of the petitioner and the respondent no.4.
2. It is stated that the petitioner and respondent no.4 are divorced and respondent no 4 has since remarried one Mr Nikhil Nath. The children of the petitioner and respondent no.4 are under the care of respondent no.4.
3. A declaration to the effect that the name of the children has been

changed from “Taneja” to “Nath” was included in the impugned notification, at the instance of respondent no.4. It is the petitioner’s case that the said change of surname of the two minor children had been notified, without any consent or authority from the petitioner. The petitioner further contends that necessary process had not been followed.

4. It is seen that one of the children is now 19 years old and is a major. The other child, who is 17 years old, is still a minor. The essential dispute raised by the petitioner relates to the change of the surname of the two children. This Court is of the view that both the children are no longer of the age where they cannot make decision for themselves. And, if they wish to retain the surname of “Nath” instead of “Taneja”; they ought not to be precluded for doing so. However, if the children of the petitioner are aggrieved by the Notification regarding change of their surname, it would be open for them to approach this court or take the necessary action. This Court is not inclined to permit the petitioner to pursue the present petition. This is clearly for the reason if the said children desire to continue using their surname as ‘Nath’, examining this petition would at best be academic if not an exercise in futility.

5. It is well settled that relief under Article 226 of the Constitution of India is discretionary, and this court is of the view that exercise of any discretion in the given facts is not warranted.

6. In view of the above, the petition is disposed of. The pending application is disposed of.

VIBHU BAKHRU, J

APRIL 30, 2019/MK