

S/L 3
06.04.2022
Court. No. 19
GB

WPA 2461 of 2021

Aratrika Ghosh Goon
VS
The state of West Bengal & Ors.

Mr. Sagarmay Ghosh.

...for the Petitioner.

*Mr. Alope Kumar Ghosh,
Ms. Tanushree Dasgupta.*

...for the State.

Pursuant to the order passed on March 23, 2022, the mother of the petitioner has affirmed an affidavit before the Judicial Magistrate of the first class, indicating that the petitioner was in the custody of the mother during her childhood. Reliance has also been placed on the decree of divorce, which indicates that the father was negligent towards the petitioner as also her mother. The petitioner seeks incorporation of the 'surname' Goon in her birth certificate issued by the Kolkata Municipal Corporation.

It is urged that the presumption is that the mother was looking after the child in view of the specific finding of the Court that the father was negligent towards the child. The petitioner had started using her mother's surname along with her father's surname and is now called Aratrika Ghosh Goon. Such correction had been incorporated in all the educational certificates and other personal documents, apart from the birth certificate. An application was made before the Kolkata Municipal Corporation for incorporation of the surname 'Goon' in the birth certificate. However, the Corporation

submits that registration of birth and/or correction or cancellation of an entry can only be made according to Sections 14 and 15 of the Registration of Birth and Deaths Act, 1969.

According to Mr. Ghosh, learned advocate appearing on behalf of the Corporation, the birth certificate was correctly given as per the information given by the parents at the time of the birth of the petitioner as also the nursing home. At that point of time the petitioner's mother also used the surname 'Ghosh' and as such, the petitioner's birth certificate described the petitioner as Aratrika Ghosh. Subsequent to the divorce, the mother changed the surname to 'Goon' and the petitioner wants to incorporate the surname 'Goon' along with 'Ghosh'. Mr. Ghosh, learned advocate insists that such incorporation cannot be made as the Corporation cannot go beyond the Statute.

The affidavit affirmed has been produced in Court, which is returned to the petitioner for submission before the Corporation. The decree of divorce clearly indicates that the father was negligent to the petitioner and her mother. There is no dispute that the petitioner lived with her mother.

The Court does not find that an emergent situation has cropped up where the birth certificate of the petitioner has been rejected by any authority. The corporation has also not rejected the case. Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to treat the writ petition as a representation and dispose of the same

with a reasoned order. Such reasoned order shall be passed within a period of six weeks from date of communication of this order. The petitioner shall be heard and also be allowed to indicate the reasons as to why such incorporation in the birth certificate is required. Correction as per the statute in the entries, may also mean inclusion therein.

The disposal of the writ petition will not debar the petitioner from approaching this court or any forum, if the situation so arises where a clarification or clarity with regard to the surname in the birth certificate would be required. Such right is kept open.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)