

19-09-2023
Court No.3
Sh/3

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

WPA 332 of 2023

**Mr. Anirban Chakraborty.
Vs.
The State of West Bengal & Ors.**

Mr. Arnab Saha.
For the Petitioner.
Mr. Hirak Barman,
Ms. Bedashruti Bose.
For the State.

It is the case of the petitioner that the marriage between the petitioner and the respondent no.8 was solemnized on 06-05-2016 and a baby girl, namely, Hitisha Chakraborty was born out of the said wedlock on 01-02-2018. The birth certificate of the said child was issued on 17-02-2018 which indicates her name as " Hitisha Chakraborty". Subsequently, due to some matrimonial dispute the petitioner and his wife started living separately and the petitioner filed Misc. case No. 12 of 2021 before the Civil Judge (Senior Division) cum Additional District Judge, Second Court at Siliguri under Section 26 of The Hindu Marriage Act, 1955.

In the meanwhile, at the instance of the respondent no.8, the respondent no.4 had issued another birth certificate in the name of the baby girl mentioned as "Roshni Chakraborty" instead of "Hitisha Chakraborty". Further her place of birth was also noted wrongly as "Dagapur".

Being aggrieved by the same the petitioner preferred an application for cancellation of the birth

certificate bearing registration No.49 dated 03-03-2018. The respondent no.5 issued notice of hearing on two occasions, however, no hearing took place on the said dates.

In view of the same the petitioner has preferred the present application seeking direction against the respondent nos.4 and 5 to dispose of the petitioner's application for cancellation of the birth certificate having registration no.49 dated 03-03-2018 in a time bound manner.

It is submitted by the petitioner that the respondent no.5 has no authority under the Statute and the Rules made there under to issue another birth certificate.

After hearing learned counsel for the petitioner this Court is of the considered view that the present writ petition can be disposed of by directing the respondent no.4 to decide and dispose of the petitioner's application for cancellation of the birth certificate having registration no.49 dated 03-03-2018 within a period of six weeks from today after affording an opportunity of hearing to the petitioner.

With this direction the present writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously subject to compliance of all requisite formalities.

(GAURANG KANTH,J.)

