

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 20978 of 2025

**Joyanty Chatterjee nee Das & Anr.
Versus
The Kolkata Municipal Corporation & Ors.**

For the petitioners : Mr. Susanta Kumar Gangopadhyay
Mr. Arun Kumar Chakraborty
Mr. Subas Ray
Ms. Subhasree Banerjee

For the Kolkata : Ms. Tanushree Dasgupta
Municipal Corporation. Ms. Rajyashree Mukherjee

Heard on : 19.12.2025.

Judgment on : 19.12.2025

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, praying for a direction upon Kolkata Municipal Corporation, being the respondent no.2, to consider and replace the name of the erstwhile husband of the petitioner, being the respondent no.4, from the birth certificate and other corresponding documents of the minor child by incorporating the name of Dhananjoy Das the petitioner no.2, and present husband of the petitioner no.1 and step father of the minor child.

2. According to the petitioner no.1, the petitioner no.1 was married to one Subhasis Bhattacharyee on 21st January, 2014 in accordance with Hindu rites and customs. Subsequently, the marriage was registered as per the provisions of Hindu Marriage Act, 1955 (hereinafter referred to as the “said Act”). The petitioner no.1 would contend that by reasons of incompatibility, the petitioner no.1 and her husband decided to separate from the relationship and accordingly the marriage was dissolved in terms of Section 13B of the said Act by a judgment and order dated 12th April, 2023, passed by the District Judge, Hooghly, in Matrimonial Suit No.383 of 2022.
3. According to the petitioner no.1, prior to the dissolution of marriage, out of the aforesaid wedlock the petitioner no.1 had given birth to a female child. It is the petitioner no.1’s case that her husband while seeking the mutual divorce had clarified that he did not want to take the responsibility of the child. Such fact is recorded in the memorandum of settlement dated 29th September, 2022. The petitioner no.1 would contend that the custody of the child has remained with her ever since. The petitioner no.1 has thereafter entered into a matrimonial relationship with the petitioner no.2 on 15th November, 2023. The factum of such marriage would corroborate from the certificate of marriage issued by the office of the Registrar General of Marriages dated 15th November, 2023. According to the petitioners, the minor child is continuing to reside with the petitioners in the residence of the

petitioner no.2 along with the petitioner no.1 and is growing up as daughter of the petitioner no.2. It is also the petitioners' case that the petitioners are jointly taking care of the child. The petitioners contend since the biological father of the child, being the respondent no.4 herein, had absolved himself of all his responsibilities, in ordinary course the name of the biological father in the birth certificate is creating psychological impact on the child. Faced with such circumstances, the petitioners had approached the municipal authorities for issuance of a fresh birth certificate by removing the name of the biological father. Since, the municipal authorities did not accede to the prayer, the instant writ petition has been filed.

4. This matter was taken up for the first time by this Court on 9th December, 2025. Though, the petitioners had filed an affidavit of service, by such order the petitioners were once again directed to communicate the gist of the order dated 9th December, 2025 to the non-appearing respondents. Since then, a fresh affidavit of service has been filed. Despite service the respondent no.4, the biological father of the minor child remains unrepresented. This Court has also interacted with the child, the petitioners, in presence of the learned advocates representing the respective parties, in chamber, on 15th December, 2025.

5. Taking into consideration the request made by the petitioners and noting that the society has moved forward and in today's world it is no longer necessary to retain the name of the biological father in the register or for that matter for a single parent to bring up a child as has been recognized in the judgment delivered by the Hon'ble Supreme Court in the case of ***Akella Lalitha vs. Konda Hanumantha Rao*** report in **2022 SCC Online SC 928** and also noting Section 15 of the Registration of Births and Deaths Act, 1969 and Sections 454 and 455 of the Kolkata Municipal Corporation Act, 1980, do provide for correction of entry in the register of births and deaths, I am of the view that in the peculiar facts of the case, the petitioners are entitled to seek a fresh birth certificate by incorporating the name of the step father, who is at present looking after the child. Such alternation of records in my view is necessary for best interest of the minor child. It, however, must also be borne in mind that the child is now minor and may have independent opinion when she grows up and attains majority.
6. In the light of the above, I direct the municipal authorities to issue a fresh birth certificate by incorporating the name of the step father of the minor child being the petitioner no.2. Consequentially, appropriate alteration also be made in the surname of the child while issuing the fresh birth certificate. However, the issuance of fresh birth certificate shall be subject to exercise of option by the minor child when she attains the age of majority.

7. With the above observations and directions, the writ petition is disposed of.
8. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

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A.R. (Court)