

01.07.2025
Sl. No. 28
Ct No. 3
SG

WPA 26373 of 2024

**Sukla Singha Roy
Vs
The State of West Benal & Ors.**

Mr. Sabyasachi Chatterjee,
Mr. Kiron Sk.

... for the petitioner

Mr. Rajarshi Basu,
Mr. S.T. Hima.

... for the State

Mr. Supriyo Roy Chowdhury,
Mr. Sankar Ghosh.

... for Barasat Municipality

1. Affidavit-of-service is taken on record.
2. Despite service none appears for respondent no.6.
3. The petitioner has filed the present writ petition alleging inaction on part of the respondent-municipality in not taking any steps to effect the change of surname of her minor son in the birth certificate, despite repeated requests and submission of documents before the authorities.
4. Learned Counsel for the petitioner states that petitioner's marriage with the private respondent was solemnized on 08.05.2017 under the provision of Special Marriage Act. During the subsistence of the marriage the petitioner was allegedly driven out of her

matrimonial home by the private respondent when she was three months pregnant. Leaner Counsel for the petitioner further submits that the petitioner gave birth to a male child on 27.02.2019. A birth certificate was issued by the municipality wherein the child's surname was recorded as that of his father. The marriage between the parties was subsequently dissolved by a decree of divorce dated 23.06.2023. It is the contention of the petitioner that the private respondent has totally abandoned the petitioner as well as the minor son and has not made any attempt to discharge his parental obligations. He has neither sought custody nor visitation right for the child. The petitioner being the biological mother as well as the primary caregiver wishes to change her son's surname from "Maji" to "Singha Roy" for practical and emotional consideration. The petitioner submitted a formal application dated 12.08.2024 before the respondent-municipality for the change of the surname along with all supporting documents. However, no decision has been taken by the authorities till date thereby compelled the petitioner to approach this Court.

5. Learned Counsel for the respondent-municipality submits that the authorities are ready and willing to consider petitioner's representation dated 12.08.2024 in terms of the direction passed by

this Court in WPA 88 of 2023 wherein the objection raised by the respondent-municipality that in terms of the Section 15 of the Registration of Birth and Death Act, 1969 imposes a bar on the municipality to change entries in the birth certificate. The said issue is no longer *res integra* and has been dealt with by the co-ordinate Bench of this Court in WPA 88 of 2023.

6. Learned Counsel for the petitioner states that she shall be satisfied if her representation is considered within a time bound manner.

7. In view of the submission made by the parties, this Court directs the respondent-Barasat Municipality to decide petitioner's presentation dated 12.08.2024 within a period of eight weeks considering the proposition of law laid down by this Court in WPA 88 of 2023 and strictly in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as the private respondent by way of a speaking order.

8. With the above direction, the present writ petition is disposed of.

9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)