

Form No. J(2)

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 2625 of 2026

**Kasturi Mitra
-vs.-
Kolkata Municipal Corporation & Ors.**

For the Petitioner : Mr. Debasis Banerjee
Mr. Sumitra Das
Ms. Srijata Mukherjee

For the Respondent no. 5 : Mr. Sayantan Jana (in person) (via VC)

For the Respondent no. 6 : Ms. Sananda Chatterjee

For the KMC : Ms. Tanushree Dasgupta
Ms. Dipanwita Ganguly

Heard on : 11.03.2026

Judgment on : 11.03.2026

Raja Basu Chowdhury, J (Oral):-

1. The present writ petition has been filed, inter alia, praying for a direction upon the Kolkata Municipal Corporation, being the respondent

no. 1 to incorporate the name of the respondent no. 6 as the father of the petitioner's minor children in their respective birth certificates.

2. The learned advocate for the petitioner, however, at the time of hearing, submits that the petitioner is only interested to seek alteration of the surname of the minor children of the petitioner from that of the surname of the respondent no. 5, who is the biological father of the minor children, to the surname of the present husband of the petitioner.

3. Accordingly, the matter is taken up for consideration. The affidavit of service filed in Court today would demonstrate that the service has been effected not only on the respondent no. 6 i.e. the present husband of the petitioner but also on the respondent no. 5, who is the erstwhile husband of the petitioner.

4. The petitioner claims that the petitioner had been married to the respondent no. 5, and out of their marriage, she had given birth to a male child on 11th May, 2009 and a female child on 1st May, 2015. The marriage between the petitioner and the respondent no. 5 was, however, dissolved by a decree of divorce on mutual consent dated 5th May, 2018 passed by the learned District Judge at Alipore, 24-Parganas (South) in MAT Suit No. 469 of 2018. Later, the petitioner got married with the respondent no. 6 on 1st August, 2018 as would appear from a copy of the marriage certificate as has been placed before this Court by the learned advocate representing the petitioner and is taken record. Out of the wedlock between the petitioner and the respondent no. 6, a female child was later born.

5. The petitioner would submit that by an order dated 26th June, 2025 in Misc. Case No. 263 of 2023 passed by the learned Additional District Judge, Fast Track Court-4, Barrackpore, North 24-Parganas, the absolute custody of the minor children born out of the wedlock between the petitioner and the respondent no. 5 have been given to the petitioner, and since then, the above children are residing with the petitioner. In so far as the eldest male child of the petitioner is concerned, he is studying in the Woodstock School, Mussoorie, Uttarkhand in the 11th standard, while the second female child of the petitioner, is studying in the 4th standard in Kolkata.

6. It is also submitted by the petitioner that the minor children are happy in the company of the petitioner and the respondent no. 6, who happens to be the present husband of the petitioner.

7. The petitioner states that the petitioner and the respondent no.5 have moved on with their respective lives and in the circumstances, as aforesaid, the petitioner has sought for alteration of the birth certificates in respect of her two minor children particulars whereof are provided in the writ petition.

8. Ms. Dasgupta, learned advocate appears for the Municipality. She would submit that the Registration of Births and Deaths Act, 1969 do not authorize such a correction.

9. Having heard the learned advocate appearing for the respective parties and noting from the statements made in the petition, which remains uncontroverted and also noting that the society has moved

forward and in today's world, it is no longer necessary to retain the name or the surname of the biological father in the birth 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*** reported in **2022 SCC Online SC 928** and also nothing 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 and circumstances of the case, the petitioner is entitled to seek correction in the birth certificate of her two minor children born out of the wedlock between the petitioner and respondent no. 5 by incorporating the surname of the step father, as such alteration of records, in my view, is also necessary for the best interest of the minor children.

10. It, however, must be borne in mind that the children, who are now minor, may have independent opinion when he or she grows up and attains majority.

11. In the light of the above, I direct the Municipal Authorities to issue fresh birth certificates by incorporating the surname of the step father of the minor children being the respondent no. 6 herein. Consequentially, appropriate alteration shall be made in the birth certificate while issuing the fresh birth certificate. However, the issuance of fresh birth certificate shall be subject to exercise of option by the minor children when they attain the age of majority.

12. With the above observations and directions, the writ petition is **disposed of.**

13. 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.)

AMR