

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 3347 of 2026

**Dt. Nabanita Banerjee
versus
The Serampore Municipality & ors.**

For the petitioner	:	Mr. Sudipta Dasgupta, Adv. Mr. S. Sutradhar, Adv. Mr. Baibhav Roy, Adv.
For the Municipality	:	Mr. Goutam Lahiri, Adv.
For the respondent No. 4:		Mr. Anath Nath Naskar, Adv. Mr. Arindam Shit, Adv.
Heard on	:	13.05.2026
Judgment on	:	13.05.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, praying for a direction upon the concerned respondent to alter the surname of the minor child of the petitioner from "Adhikary" to "Banerjee" in birth certificate bearing registration No. WB_BR_2011/20036/1/6750. It is the petitioner's case that she was married to one Santu Adhikary, the respondent No. 4 herein on 11th February, 2008 as per Hindu

Rites and Customs and out of the wedlock, she had given birth to a male child on 19th October, 2011 at United Nursing Home Pvt. Ltd., Serampore Hooghly. The factum of the petitioner giving birth to a male child on 19th October, 2011 would corroborate from the certificate issued by the concerned nursing home. Following the aforesaid, a birth certificate was issued by the Serampore Municipality in Form 5 and as per Rule 9 of the Registration of Births and Deaths Rules, 2000. The petitioner's case proceeds on the premise that there was a marital discord between the petitioner and her husband which ultimately led to a separation and thereafter a decree for divorce on consent was passed by the Court of Learned Additional District Judge, 1st Court, Serampore, Hooghly in MAT suit No. 454 of 2015 vide judgment and order dated 1st December, 2015. Though, the petitioner claims in the petition that it was decided mutually by the petitioner and the respondent No. 4 that the custody of the minor child will remain with the petitioner, there is no document to support the same. According to the petitioner, the minor child has since been residing with the petitioner and is now 14 years old. The respondent No. 4 has never claimed the custody nor has discharged any parental responsibility. The petitioner would submit that the surname of the minor child has been recorded in the Aadhaar card, PAN card(Minor), School records, Bank passbook and Ration card as "Banerjee". However, the birth certificate of the petitioner continues to record the surname as "Adhikary". The

aforesaid has created an anomalous situation. The minor child who is presently studying in 8th standard in a School affiliated to the Council for the Indian School Certificate Examinations would soon be required to undergo registration process for participating in the Secondary Board examination, hence, there is a necessity to seek alteration of the birth records as in absence thereof, the registration of the petitioner's minor son cannot be carried out having regard to the anomalous situation noted hereinabove.

2. The respondent No. 4 is represented. The advocate representing him would submit that he has no objection to this alteration. He would submit that the respondent no.4's name is Santu Adhikary and not Santanu Adhikary as recorded in the cause title of the present writ petition. He would submit that he has already filed vakalatnama and is authorized to represent Santu Adhikary, the biological father of the minor child of the petitioner. According to the learned advocate for the respondent No. 4, the said respondent does not have any objection if the surname of the minor child is altered in birth certificate from "Adhikary" to "Banerjee".
3. The municipality is represented and would submit that during pendency of the writ petition, the municipality has passed an order observing that municipality also has no objection in principle regarding the change of surname of the minor son of the petitioner from "Adhikary" to "Banerjee" and has accordingly directed the petitioner to submit all details with a further direction that the

matter shall be processed strictly in accordance with the guidelines issued by the Directorate of Health Services, Government of West Bengal vide memo No. SBIH/2C-2-2022/200 dated 29th July, 2025. Such fact would corroborate from the order dated 12th May, 2026.

4. Incidentally, though the matter was pending consideration before this Court and though by an order dated 28th April, 2026, this Court had directed the matter to be listed in Chamber for interaction with the minor child at 1:30 p.m., without leave of the Court, the municipality appears to have proceeded, such conduct on the part of the municipality in proceeding with the matter appears to be derogatory to say the least. The municipality, when this Court was in seisin ought not to have proceeded with the matter. This apart, the learned advocate for the municipality unfortunately also could not place before this Court the particular memorandum indicated in the aforesaid order.
5. Having heard the learned advocates appearing for the respective parties, I may note that by an order dated 28th April, 2026 noting the relief sought for, this Court had fixed the matter in chamber for interaction with the minor child at 1:30 p.m. this day. The Court has since interacted with the child in presence of the learned advocates representing respective parties. I find that it is an admitted position that the petitioner has given birth to the minor male child out of the wedlock between the petitioner and the respondent No. 4 who appears to be the biological father of the minor child. The hospital

had since issued a certificate recording the factum of the petitioner giving a birth to a male child and consequent thereon, the municipality had also issued a birth certificate. I find from the materials available on record that the petitioner has affirmed an affidavit before notary public at Chandernagore and has also affirmed an affidavit before the learned Judicial Magistrate, 1st Class, at Chandannagar, Hooghly confirming the aforesaid facts. I also find that the application for change of surname in the birth certificate of the minor child is pending before the municipality since 17th October, 2025. Notwithstanding such application, the municipality has not bothered to take any steps, only after the order dated 28th April, 2026 was passed the municipality thought it fit to decide on the representation. Unfortunately, the order dated 12th May, 2026 would reveal that the municipality is yet to take a final decision thereon.

6. Taking into consideration, the prayer made by the petitioner and that the society has moved forward and in today's' world, it is no longer necessary to retain the surname of the biological father in the birth certificate and for that the matter for a single parent to bring up a child as has been recognized by the judgment delivered by the Hon'ble Supreme Court in the case of ***Akella Lalitha v. Konda Hanumantha Rao***, reported in **2022 SCC OnLine SC 928** and also noting Section 15 of the Registration of Births and Deaths Act, 1969 do provide for correction of entry in the register of births and deaths,

I am of the view there can be no impediment in allowing the application.

7. Further, having regard to view taken by this Court in the case of ***Namita Das v. The State of West Bengal & Ors.***, having neutral citation **2026:CHC-AS:475**, I am of the view that alternation of records as sought for by the petitioner does not appear to be irregular in the present facts. Such alteration in my view, is also necessary in the best interest of the minor child as the same would remove the confusion and make all available documents recording his date of birth in order, and in consonance with one another. It, however, must be borne in mind that the child is a minor and may have an independent opinion when he grows up and attains majority.
8. In the light of the above, I direct the municipality to issue a fresh birth certificate by incorporating the maiden surname of the petitioner in the column of the surname of the petitioner's minor male child, by issuing the same as and by way of an addendum providing that both the certificates that is the original and the present certificate are to be read together. However, issuance of fresh certificate shall be subject to exercise of option by the minor child when he attains the age of majority.
9. With the above observations and directions, the writ petition is disposed of.

10. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all requisite formalities.

(Raja Basu Chowdhury, J.)

**Sayandeep
A.R. (Court)**