

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 20763 of 2025

**Namita Das
Versus
The State of West Bengal & Ors.**

For the petitioner : Mr. Samaresh Chandra Dhara

For the Municipality : Mr. Achintya Kumar Banerjee
Ms. Indumouli Banerjee

Heard on : 16.03.2026.

Judgment on : 16.03.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, praying for a direction upon the Registrar of Births and Deaths, Habra Municipality to dispose of the petitioner's application dated 5th August, 2025, whereby the petitioner sought for alteration of the surname of the minor girl child of the petitioner to the petitioner's maiden surname. According to the petitioner, the petitioner was married to one Bikash Dey on 10th December, 2010, in accordance with the Hindu Rites and Customs. Out of the aforesaid wedlock, the petitioner has given birth to a minor girl child on 15th September, 2011. According to the petitioner, the petitioner and her

husband having failed to resolve the matrimonial disputes an application was filed under Section 13B of the Hindu Marriage Act, 1955, before the Court of the learned 5th Additional District Judge, at Barasat, which was registered as Matrimonial Suit No. 24 of 2016. The said suit ultimately came to be decreed on 9th March, 2017 whereby the marriage between the petitioner and the respondent no.6, solemnized on 10th December, 2010, stood dissolved by a decree of divorce with effect from the said date. According to the petitioner, consequent upon the aforesaid decree the petitioner has been living separately along with her minor girl child at the parental home of the petitioner, though in the writ petition such fact has been incorrectly recorded as matrimonial home as would appear from the submissions made by Mr. Dhara, learned advocate for the petitioner.

2. It is also the petitioner's case that the petitioner has admitted her minor daughter in Greenfield Convent School at Habra and is bringing up the minor girl child as a single parent. The child is presently studying in Class -VIII. According to the petitioner by reasons of the birth certificate recording the surname of the minor girl child as "Dey", which happens to be the surname of the biological father of the minor girl child, the same stands recorded in the birth certificate, though the biological father of the minor girl child has failed to take any responsibility for the child. As such the other documents like the Aadhaar Card, Ration Card records the

surname of the petitioner's minor girl child as 'Das'. According to the learned advocate for the petitioner the biological father of the minor girl child, being the respondent no.6 has absolved himself from all his responsibility in ordinary course and accordingly the surname of the biological father in the birth certificate is not only creating a mismatch with the other documents but the same is also creating psychological impact on the child. It is in the circumstances as aforesaid, the petitioner has sought for change of the surname of the minor girl child in the birth certificate issued by the Registrar of Births and Deaths, Habra Municipality by an application dated 5th August, 2025. According to the petitioner, the petitioner has already affirmed an affidavit before the learned Executive Magistrate, 1st Class on 7th August, 2015 declaring that she intends to bring up the child as per her maiden title and has also prayed for change of surname of the minor girl child in the birth certificate. Despite such affidavit having been placed before the Registrar of Births and Deaths, Habra Municipality, the concerned respondent has failed to take any steps in this regard.

3. Mr. Banerjee, learned advocate appears on behalf of the municipality. According to Mr. Banerjee, there is no provision in the registration of Births and Deaths Act, 1969 which allows alteration or change of the father's surname in the birth certificate of the child, consequent upon divorce of the parents of the child. According to him, since law does not authorize the change, this

Court ought not to allow the same. In support of his contention he has placed reliance on the communication dated 7th April, 2025 issued by the Joint Director (CRS), Government of India, Ministry of Home Affairs addressed to the Chief Registrar of Births and Death and Director of health Services, West Bengal.

4. Heard the learned advocates appearing for the respective parties and considered the materials on record.
5. When the matter was moved on 19th February, 2026, this Court considering the peculiar facts involved had directed the matter to appear in chamber for an interaction with the girl child. Later at the instance of the petitioner, by order dated 25th February, 2026 the date for interaction was rescheduled.
6. Pursuant to the order dated 25th February, 2026, the minor girl child who is aged about 14 years is present in Court. This Court has interacted with the girl child in presence of the learned advocates representing the respective parties.
7. I find that in the instant case admittedly the petitioner was legally married to the respondent no.6. It is also an admitted position that out of the aforesaid marriage the petitioner has given birth to a girl child on 15th September, 2011. The aforesaid fact has also been recorded in the birth certificate issued by the office of the Board of Councillors, Habra Municipality on 12th December, 2011. The

certificate apart from recording the name of the biological father and mother of the minor girl child also records the maiden surname of the mother of the girl child. I find that by passage of time the petitioner and the respondent no.6 having not been in a position to resolve their matrimonial disputes, a suit had been instituted before the learned 5th Additional District Judge at Barasat, which came to be decreed on 9th March, 2017, where under the marriage between the petitioner and the respondent no.6 stood dissolved. Since then, the petitioner claims to have taken care of the minor child. The minor child is now 14 years of age presently studying in Class –VIII. According to the petitioner, the petitioner has been residing in the parental home along with the minor child and is taken care of the child as a single parent.

8. Though, the petitioner has filed an affidavit of service, however, since the respondent no.6 i.e. the biological father of the minor child was not represented on 9th February, 2026, this Court had directed the petitioner to communicate the said order to the biological father of the minor child. Pursuant to the aforesaid, a fresh affidavit of service has been filed in Court today which is taken on record. Despite service, the respondent No. 6 i.e. the biological father of the minor child remains unrepresented.
9. Taking into consideration the prayer made by the petitioner and noting 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 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 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 above application, however, since Mr. Banerjee has relied on a communication dated 7th April, 2025 issued by the Joint Director (CRS), Government of India, Ministry of Home Affairs, it is relevant to consider such communication. To morefully appreciate the same, the relevant portion of communication is extracted herein below:

2. In this connection, it is to clarify that under section 15 of the Registration of Births and Deaths (RDD) Act, 1969 (amended in 2023) provides provision for correction in birth record, if the concerned Registrar is satisfied on the basis of supportive documents furnished by the applicant. In this context, reference may also be drawn to this office circular no. 1/12/2014(VS-CRS) dated 30-06-2015 on the subject "Correction in name and date of birth of the child in birth record-clarification sought", wherein the detailed guideline on the matter was issued, further it is also to clarity in divorce cases, as such, there is no provision in the Registration of Births and Deaths (RBD) Act, 1969 which allows deletion or change of

father's name in the birth certificate of child from the already registered birth event of a child.

3. In respect of keeping both wives name in death certificate, it is to clarify that the name of legally married wife could be mentioned in the death certificate. However, for cases where more than two wives are alive and both/ all of them claiming to be legally wedded wife of the deceased, legality cannot be decided by the Registrar, it could be decided by the court. Therefore, the Registrar may be instructed to direct the applicant to obtain an order from the concerned court on the legality of the relationship with the deceased husband.

10. As would appear from the aforesaid communication that there is no provision in the Registration of Births and Deaths Act, 1969 which allows the deletion or change of father's name in the Birth Certificate of the child from the already registered birth event of a child. It is true that the Registration of Births and Deaths Act, 1969 as noted above is silent on such score. However, having regard to the peculiar facts and since the petitioner is only seeking alteration of the surname of the minor girl child from the surname of the respondent no.6 to her maiden surname which also stands records in the birth certificate, I am of the view there cannot be any impediment on the part of the municipality in allowing the same, especially when the biological father of a minor girl child has not come forward to object to the same.

11. Such alteration of records, in my view is also necessary in the best interest of the minor child as the same would remove confusion and make all documents in order. It must, however, be borne in mind that the child is minor and may have an independent opinion when she grows up and attains majority. 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 birth certificate of the minor girl child by issuing the same as and by way of addendum providing that both the certificates that is the original and the present certificate are to be read together. However, issuance of fresh birth certificate shall be subject to exercise of an option by the minor child when she attains the age of majority.

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

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.)

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