HC-KAR

NC: 2026:KHC:9735
WP No. 33465 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 33465 OF 2025 (LB-BMP)

BETWEEN:

1. [redacted] (GUARDIAN / MOTHER)

2. [redacted]

...PETITIONERS

(BY SRI. THANGMINLAL HAOKIP.,ADVOCATE)

AND:

1. CHIEF REGISTRAR
   BIRTHS AND DEATHS BENGALURU
   SIR M VISHVESHVARRAYA MAIN TOWER,
   DR.AMBEDKAR VEEDHI,
   BENGALURU-560 001
   EMAIL crbdkar@gmail.com
   OFFICE ON.080-22869741

2. COMMISSIONER (B.B.M.P)

HUDSON CIRCLE, BENGALURU-560002
EMAIL comm@bbmp.gov.in
OFFICE NO.080-22975550

…RESPONDENTS

(BY SRI. PAWAN KUMAR.,ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT OR ORDER DIRECTING THE R1 TO CHANGE THE NAME OF THE P1 IN HER BIRTH CERTIFICATE FROM [redacted] TO [redacted] AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The Petitioners are before this Court seeking for the following reliefs:

   a) *To issue a writ of mandamus or any other appropriate writ or order directing the respondent No.1 to change the name of the petitioner No.1 in her birth certificate from* [redacted] *to* [redacted] *and direct the R2 to issue a fresh/new birth certificate with the prescribed fee as fixed by the government.*

   b) *Pass such order or grant such other reliefs as this Hon'ble Court deems fit to grant under the facts and circumstances of this case, in the interest of justice and equity.*

2. Petitioner No.1 is a minor daughter of petitioner No.2 and one [redacted]. It is stated

that they were not married, but from and out of a live in relationship, the petitioner No.2 gave birth to petitioner No.1 on 16.02.2017 at K C General Hospital in Malleswaram, Bengaluru.

3. Subsequently, the petitioner No.2 applied for a birth certificate by showing the name of the petitioner and the aforesaid [redacted] as the father. In pursuance of which, a birth certificate came to be issued on 04.03.2017.

4. The father ([redacted]), expressed unwillingness to continue his relationship with petitioner No.2 and left for his hometown in Nepal. Thereafter, petitioner No.2 and the father ([redacted]) have had no interaction, communication or relationship with each other.

5. The name of the natural father has been shown in the birth certificate. But the said father is not willing to take the responsibility for the upkeep of the minor daughter-petitioner No.1.

6. The Petitioner No.2 had approached the Respondent for the deletion of the name of the father and the addition of the name of the Petitioner No.2 and her

family name in the birth certificate. The said application was not considered by the Respondent.

7. Along with the said application, Petitioner No.2 had submitted an Aadhar card, a passport, a study certificate of Petitioner No.1 and an affidavit categorically stating that the rectification required would not affect any third party. Petitioner No.2 being named [redacted], a derivative of her name to be added along with the name of the petitioner as Themnunhoi as also the family name of Haokip to be added to the name of Petitioner No.1.

8. An endorsement came to be issued that the respondents do not have the power to carry out such a correction. In pursuance to which a legal notice came to be issued by the petitioner No.2 on 05.09.2025, which was not acted upon and it is in that background that the petitioner is before this Court seeking for the aforesaid reliefs.

9. The points that would arise for determination are:

   i. **Whether the Respondent–Registrar possesses power under the Registration of Births and Deaths Act, 1969 to effect correction of the nature sought?**

ii. **Whether change of the minor child's name to reflect the maternal derivative/family name, while retaining the father's name in the birth certificate, affects any substantive legal rights?**

iii. **Whether the relief sought is in the best interest of the minor child?**

iv. **What order?**

10. I answer the above points as Follows

11. **<u>Answer to Point No.(i):</u> Whether the Respondent–Registrar possesses power under the Registration of Births and Deaths Act, 1969 to effect correction of the nature sought?**

11.1. Sri. Thangminlal Haokip, learned counsel for the petitioners, submitted that petitioner No.1 is a minor child aged about 8 years, born on 16.02.2017 at K C General Hospital, Malleswaram, Bengaluru, out of a live-in relationship between petitioner No.2 ([redacted]) and one [redacted]. The birth certificate was issued on 04.03.2017, bearing the name of the child as [redacted], with the name of [redacted] shown as the father.

11.2. It was further submitted that the said [redacted] expressed unwillingness to continue the relationship with petitioner No.2 and left for his hometown in Nepal, completely abandoning both the mother and the minor child. Since then, there has been no interaction, communication, or relationship between the father and the petitioners. The father has not contributed in any manner whatsoever to the upkeep, maintenance, or welfare of petitioner No.1.

11.3. Sri. Thangminlal Haokip submitted that petitioner No.2, being the sole caretaker of petitioner No.1, approached the respondent-Registrar seeking for addition of the maternal derivative name 'Themnunhoi' and the family name 'Haokip' so that the child's name would read as "[redacted]". Along with the application, petitioner No.2 furnished the Aadhaar card, passport, study certificate of petitioner No.1, and a sworn affidavit categorically stating that the rectification sought would not affect any third-party rights.

11.4. It was contended that the respondent-Registrar rejected the application by way of an endorsement stating that the respondents do not have the power to carry out such a correction. A legal notice was thereafter issued on 05.09.2025, which was not acted upon by the respondents.

11.5. Sri. Thangminlal Haokip urged that the Registration of Births and Deaths Act, 1969 (hereinafter referred to as 'the Act') specifically provides for correction and cancellation of entries in the register of births and deaths. It was submitted that Section 15 of the Act empowers the Registrar to make corrections in the register upon an application being made to him. Furthermore, Section 22 of the Act provides for correction of entries in the register within prescribed time limits and with prescribed safeguards. It was therefore the submission that the respondent-Registrar was wholly incorrect in stating that no power exists to make such corrections.

11.6. It was further submitted that the nature of the correction sought is not the creation of a new

entry or a fabrication of facts, but rather an alteration necessitated by a change in the personal circumstances of the family. The father having abandoned the family, the mother's decision to give the child her own family identity is a lawful exercise of her parental authority. The Registrar ought to have exercised the power vested under the Act and effected the correction sought.

11.7. Sri. Pawan Kumar, learned counsel for the respondents, submitted that the relief sought by the petitioners is not in the nature of a mere correction or rectification of a clerical or factual error in the birth certificate. What is sought is a substantive alteration of the name of the child. It was contended that the Act contemplates correction of entries only where there is an error or omission in the original entry, and not where the entry was accurate at the time it was made.

11.8. Sri. Pawan Kumar further submitted that the name of the father was correctly recorded at the time of registration of the birth on the basis of information provided by petitioner No.2

herself. It was not a case of any error or omission in the entry. The fact that the live-in relationship subsequently ended does not render the original entry erroneous. The biological fact of paternity remains unchanged regardless of the status of the relationship between the parents.

11.9. It was further submitted that the respondents are statutory authorities bound by the provisions of the Act and the Rules framed thereunder. The power to effect a correction under Section 15 is limited to genuine errors and omissions, and does not extend to substantive changes in the name of the child based on subsequent personal circumstances. Such changes, it was argued, would require an order from a competent court.

11.10. Sri. Pawan Kumar submitted that the endorsement issued by the Respondent was bona fide and in accordance with the Respondent’s understanding of the scope of power under the Act. It was not a case of arbitrary refusal but rather a genuine interpretation of the statutory provisions.

11.11. I have carefully considered the submissions of both learned counsel. The central question under this Point is whether the respondent-Registrar possesses the statutory power to effect the changes sought by the petitioners, namely the change in the name of the child from [redacted] to [redacted];

11.12. In order to answer this question, it is necessary to examine the relevant provisions of the Registration of Births and Deaths Act, 1969. The Act was enacted by Parliament to provide for the regulation of registration of births and deaths and for matters connected therewith.

11.13. **Section 14 of the Act** deals with the information regarding births and deaths and provides as follows:

> ***"14. Information regarding birth and death**.—(1) It shall be the duty of the persons specified in subsection (2) to give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, and within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16."*

11.14. **Section 15 of the Act** is of critical importance and provides for the duty of the Registrar upon receiving information:

> ***"15. Duty of Registrar receiving information of births and deaths.***—*(1) The Registrar, on receiving information under section 14, shall, if he is satisfied that the informant is in a position to give the correct information, forthwith enter in the register maintained for the purpose all the particulars required to be entered therein."*

11.15. **Section 16 of the Act** provides for the forms of registers of births and deaths, prescribing the particulars required to be entered in the register.

11.16. **Section 22 of the Act** is the most significant provision for the present case and provides for the correction or cancellation of entry in the register:

> ***"22. Correction or cancellation of entry in register****.—(1) If it is proved to the satisfaction of the Registrar that any entry of a birth or death in the register is erroneous in form or substance, the Registrar may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of correction or cancellation.*

(2) The correction of any error in the particulars described in any prescribed form shall not be made except with the written authority of the prescribed authority."

11.17. A plain reading of Section 22(1) of the Act reveals that the Registrar is empowered to correct an entry if it is "erroneous in form or substance." The expression "erroneous in form or substance" is broad enough to encompass not merely clerical or typographical errors, but also errors going to the substance of the entry. The section does not limit the nature of the error that can be corrected. It empowers the Registrar to make corrections "subject to such rules as may be made by the State Government."

11.18. The contention of Sri. Pawan Kumar that the original entry was accurate at the time it was made and therefore cannot be treated as "erroneous" deserves serious consideration. It is true that the name of the father was recorded based on information furnished by petitioner No.2 at the time of registration, and at that point in time, the information was factually correct. The father was indeed [redacted].

11.19. However, the question is not merely whether the original entry was accurate at the time of its making, but whether, in the changed circumstances, the continued maintenance of the entry in its present form serves the purpose of the Act and the interests of the registered person. The name of a child is not merely a matter of biological fact; it is an integral part of the child's identity. Where the mother, being the sole custodial parent and the only person responsible for the child's upbringing, seeks to give the child her own family name, and where the father has completely abandoned the child, the continued recording of the father's surname in the child's name creates a practical anomaly that may well be regarded as an entry that is "erroneous in substance" in the broader sense.

11.20. Furthermore, even if one were to take a narrow view of Section 22 and hold that it does not extend to the kind of change sought by the petitioners, it must be remembered that the High Court exercising jurisdiction under Article 226 of the Constitution of India has the power to issue a writ of mandamus or any other appropriate writ, direction, or order for the

enforcement of fundamental rights or for any other purpose. The power under Article 226 is of the widest amplitude and is not circumscribed by the provisions of any statute. Where the statutory authority has failed to exercise its power or has exercised it in a manner that is unreasonable, arbitrary, or contrary to the interests of a minor child, this Court is empowered to step in and issue appropriate directions.

11.21. In the present case, the respondent-Registrar took the position that the respondents "do not have the power to carry out such a correction." This endorsement is, in my considered opinion, based on an unduly restrictive and incorrect interpretation of the provisions of the Act. The Registrar failed to properly appreciate the scope of Section 22 of the Act, which empowers the Registrar to correct entries that are erroneous in form or substance. Even assuming that the Registrar entertained a genuine doubt about the scope of the power, the proper course would have been to seek guidance from the prescribed authority or to inform the

petitioners of the procedure to be followed, rather than to issue a blanket refusal.

11.22. Moreover, the endorsement did not even consider the merits of the application. No reasons were assigned. The application was accompanied by supporting documents including the Aadhaar card, passport, study certificate, and a sworn affidavit. A blanket refusal without application of mind to the relevant materials amounts to non-exercise of statutory power and is amenable to correction under Article 226 of the Constitution.

11.23. In light of the above, I hold that the respondent-Registrar does possess power under the Act, particularly under Section 22 thereof, to effect corrections in the birth register, and that such power is broad enough to encompass the nature of corrections sought by the petitioners. Even if the power under the Act is viewed as insufficient, this Court possesses ample power under Article 226 of the Constitution to direct the Respondent to carry out the changes in the interest of the minor child. The endorsement issued by the

Respondent refusing to carry out the correction is based on an erroneous interpretation of the Act and amounts to a failure to exercise statutory power.

11.24. I answer Point No. (i) by holding that the Respondent–Registrar possesses power under the Registration of Births and Deaths Act, 1969 to effect correction of the nature sought. The respondent-Registrar possesses power under Section 22 of the Registration of Births and Deaths Act, 1969 to effect the correction sought. Furthermore, this Hon'ble Court, in exercise of its jurisdiction under Article 226 of the Constitution, is empowered to direct the Respondent to carry out the necessary changes. The endorsement issued by the Respondent refusing to effect the correction is based on an erroneous interpretation of the Act and amounts to a failure to exercise statutory power.

12. **<u>Answer to Point No.(ii):</u> Whether change of the minor child's name to reflect the maternal derivative/family name, while retaining the father's name in the birth certificate, affects any substantive legal rights?**

12.1. Sri. Thangminlal Haokip, learned counsel appearing for the petitioners, clarified that the relief sought is confined to change of the minor child's name so as to incorporate the maternal derivative "Themnunhoi" and the maternal family name "Haokip". It is specifically submitted that there is no prayer for deletion of the father's name from the birth certificate. The column relating to the father shall continue to reflect the name of [redacted] as the biological father of the minor. Thus, the factual and legal acknowledgment of paternity remains intact.

12.2. Learned counsel submitted that the child was born out of a live-in relationship between petitioner No.2 and the said [redacted]. The relationship has since ended. The father has left the country and has neither participated in nor contributed to the upbringing of the minor child. The child is being raised exclusively by the mother and the maternal family. In such circumstances, it was contended that permitting the child to bear the maternal derivative and family name reflects

the social reality of her upbringing and does not interfere with any substantive legal right of the father.

12.3. It was further submitted that petitioner No.2 has furnished a sworn affidavit affirming that no third-party rights would be affected by the proposed rectification. The change is limited to nomenclature. The biological relationship remains recorded in the statutory register. The father's legal remedies, if any, remain unaffected.

12.4. Per contra, Sri. Pawan Kumar, learned counsel for the respondents, contended that even alteration of the surname of a child may have legal implications. According to him, the surname is not merely symbolic; it may have bearing on issues of identity and succession. He submitted that caution must be exercised before permitting such change.

12.5. I have considered the rival submissions. The issue must be examined in the correct factual and legal perspective. It is essential to emphasise that this case does not involve deletion of the father's name as father. The

statutory acknowledgment of paternity remains untouched. The father's name continues to be reflected in the birth certificate. The only question is whether alteration of the child's surname to reflect maternal lineage affects any substantive legal right.

12.6. The genesis of the present dispute lies in the fact that the child was born out of a live-in relationship. The law in India has, over the years, evolved to recognise live-in relationships to a certain extent, particularly in the context of protection from domestic violence and the rights of children born from such relationships.

12.7. Children born outside formal marriage cannot be stigmatised or deprived of legal protection. Substantive rights of children cannot be defeated by technicalities of marital status. There is a constitutional commitment to protect children, irrespective of the parents' marital status.

12.8. At the same time, it is equally well recognised that a live-in relationship does not automatically create the full legal framework of marriage. The rights and obligations between

partners may not be identical to those arising out of wedlock. Where such a relationship ends, the legal system must address the consequences in a manner that prioritises the welfare of the child.

12.9. In the present case, the live-in relationship has come to an end. The father has ceased cohabitation and is not participating in the upbringing of the minor. The child's daily life, social environment, and emotional anchorage are centred entirely in the maternal family. The request to incorporate the maternal derivative and family name is a reflection of this lived reality.

12.10. A surname is a social identifier. It signifies lineage or familial association but does not, by itself, create or extinguish legal rights. Rights relating to maintenance, inheritance, guardianship, or succession arise from the existence of a legally cognisable parent-child relationship.

12.11. In the present case, since the father's name continues to be recorded in the birth certificate, there is no ambiguity as to biological

parentage. The statutory record continues to reflect the father as father.

12.12. A child's right to claim maintenance from the biological father does not depend upon the surname she bears. Similarly, succession rights are determined by statutory provisions governing inheritance, not by the suffix attached to the child's name.

12.13. Therefore, the change of surname does not affect substantive legal rights.

12.14. Dignity, autonomy, and identity are intrinsic components of Article 21 of the Constitution. Identity is not frozen by tradition. The Constitution does not mandate that a child must invariably bear the father's surname.

12.15. In contemporary constitutional understanding, interpretation of personal identity cannot be divorced from the guarantees of equality and non-discrimination enshrined in Articles 14 and 15 of the Constitution of India. The constitutional order no longer views lineage, family structure, or naming conventions through a rigidly patriarchal lens. Equality

before law and equal protection of laws mandate that maternal identity stands on the same legal footing as paternal identity.

12.16. The presumption that a child must invariably bear the surname of the father is not a constitutional mandate but a social convention. Such convention cannot override the constitutional principle that men and women enjoy equal status in matters relating to family, parenthood, and identity. Article 15 prohibits discrimination on grounds of sex. To insist, as a matter of law, that identity must be tethered to paternal lineage alone would indirectly perpetuate gender-based hierarchy in matters of familial recognition.

12.17. The evolution of constitutional jurisprudence reflects a conscious movement away from gender asymmetry. Parenthood is not a hierarchy; it is a legal relationship. Where the mother is the sole caregiver and natural guardian in fact, there is no constitutional impediment in recognising maternal lineage as the marker of the child’s surname. Recognition

of maternal identity does not diminish paternal status; it affirms parity.

12.18. Thus, contemporary constitutional doctrine, grounded in dignity, autonomy, and equality, supports the proposition that a child's identity may legitimately reflect maternal lineage without infringing any substantive legal right. To insist that a child must necessarily bear the paternal surname, even where the paternal relationship has ceased in practical terms, would be inconsistent with evolving constitutional values.

12.19. The right of the custodial parent to determine the name of a minor child is an aspect of parental autonomy, subject always to the welfare of the child. In the present case, the mother, being the sole caregiver, seeks a name that reflects the familial context in which the child is growing up. It is important to reiterate that the father's legal position remains unaffected. His name continues in the birth certificate. The biological fact of parentage is preserved.

12.20. If at any future point the father seeks to assert custodial, guardianship, maintenance, or succession rights, such claim would be adjudicated on its merits. The child's surname would not operate as a bar to such adjudication. The present rectification is therefore administrative and representational. It does not adjudicate rights; it merely records identity.

12.21. The present case emerges from the dissolution of a live-in relationship. The law cannot ignore the social realities that follow such dissolution. At the same time, it must ensure that substantive rights are preserved. Since the father's name continues to be recorded in the birth certificate and the biological relationship remains acknowledged, alteration of the child's surname to incorporate the maternal derivative and family name does not affect any substantive legal right of the father or any third party. On the contrary, it aligns the child's recorded identity with her lived familial environment, consistent with constitutional values of dignity and autonomy.

12.22. Accordingly, I answer Point No.(ii) by holding that the proposed change of the minor child's name, while retaining the father's name in the birth certificate, does not affect substantive legal rights and is legally permissible. The insertion of the maternal derivative/family name in the birth certificate does not affect any substantive legal rights of any person. The biological and legal relationship between the child and the father, including the child's rights of inheritance, succession, and maintenance, remains unaltered. The change is one of nomenclature and identity that reflects the actual family environment in which the child is being raised.

13. **<u>Answer to Point No.(iii):</u> Whether the relief sought is in the best interest of the minor child?**

13.1. Sri. Thangminlal Haokip, learned counsel for the petitioners, submitted that the relief sought is squarely in the best interest of petitioner No.1, the minor child. The child is being raised solely by petitioner No.2, the mother, with the support of her maternal family. The father has

completely abandoned them and has had no role whatsoever in the child's life. In these circumstances, it is in the best interest of the child that her name reflect her actual family identity, that is, the maternal family of Haokip.

13.2. It was submitted that the child is now about 8 years old and is attending school. The discrepancy between the name in the birth certificate ([redacted]) and the name by which the child is known in the maternal family (with the Haokip surname) creates confusion and practical difficulties in school admission, obtaining identity documents, and other day-to-day matters. The child's study certificate already reflects the usage of the maternal name. It is in the child's interest that all official documents be consistent and reflect the name by which the child is actually known.

13.3. Sri. Thangminlal Haokip further submitted that the principle of the 'best interest of the child' is a paramount consideration in all matters concerning children, as recognised both under Indian law and international conventions. The child's right to identity, dignity, and a sense of

belonging to a family are protected under Article 21 of the Constitution. Allowing the child to bear the mother's family name promotes the child's psychological well-being and social integration.

13.4. Sri. Pawan Kumar, learned counsel for the respondents, submitted that the respondents are not opposed to the welfare of the child but are constrained by the statutory framework. It was submitted that the respondents, as registering authorities, are duty-bound to maintain accurate records of vital events and cannot alter records based on subsequent changes in personal circumstances without proper legal authority.

13.5. It was further submitted that the best interest of the child is not the sole consideration; the statutory framework and the need to maintain accurate vital statistics must also be considered. Permitting changes in vital records based on changes in personal relationships could undermine the integrity of the registration system.

13.6. The principle of the 'best interest of the child' is the golden thread that runs through the entire fabric of the law relating to children. This principle is enshrined in Article 3 of the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory. Article 3 of the UNCRC provides:

> **1.** *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
>
> **2.** *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*
>
> **3.** *States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

13.7. Under Indian law, the principle of the best interest of the child has been repeatedly affirmed as the paramount consideration in all matters affecting children. Article 21 of the Constitution of India guarantees the right to life

and personal liberty, which has been expansively interpreted to include the right to live with dignity, the right to identity, and the right to a name. For a minor child, these rights are to be protected by the custodial parent and by the State.

13.8. Article 7 of the UNCRC further provides that a child shall have the right from birth to a name and the right to acquire a nationality.

> 1. *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*
> 2. *States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*

13.9. Article 8 provides that States Parties shall respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law.

> **1.** *States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*
>
> **2.** *Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity*

13.10. These international instruments, while not directly enforceable, form the interpretation of fundamental rights under the Constitution.

13.11. Applying the principle of the best interest of the child to the facts of the present case, the following factors are relevant:

13.11.1. The child was born out of a live-in relationship which has ended. The biological father has abandoned the child and the mother and has left the country.

13.11.2. The father has had no interaction, communication, or contribution towards the upbringing of the child since his departure.

13.11.3. The child is being raised solely by the mother with the support of the maternal family (the Haokip family).

13.11.4. The child is now about 8 years old and is attending school. The name in the birth certificate does not reflect the family with which the child actually lives and identifies.

13.11.5. The discrepancy between the birth certificate name and the name used in practice creates confusion and practical difficulties for the mother and the child.

13.11.6. The mother has furnished an affidavit stating that the change will not affect any third-party rights.

13.12. Taking all these factors into account, I have no hesitation in holding that the relief sought is in the best interest of the minor child. The child's identity, dignity, and sense of belonging to a family are fundamental aspects of the right to life under Article 21. A child who grows up bearing the surname of a father who has abandoned her, with no connection to the paternal family, is likely to face emotional and psychological difficulties, particularly as the child grows older and becomes aware of the circumstances of her birth and the father's

abandonment. Allowing the child to bear the mother's family name will promote the child's integration into the maternal family and give the child a sense of belonging and identity.

13.13. The concern of Sri. Pawan Kumar regarding the integrity of the vital statistics registration system is not without merit. However, the registration system is meant to serve the people, not the other way around. Where the strict maintenance of an entry in the register causes real hardship to a minor child and conflicts with the child's best interest, the system must yield to the child's welfare. The integrity of the system can be maintained through adequate safeguards, such as the requirement of an affidavit, an indemnity deed, and the recording of the change by way of a entry as contemplated under Section 22 of the Act, so that the original entry is preserved alongside the correction.

13.14. Furthermore, the fact that petitioner No.1 was born out of a live-in relationship places her in a unique situation. Live-in relationships, while recognised under Indian law to a limited extent,

do not provide the same legal framework and stability as a marriage. The child born out of such a relationship is particularly vulnerable when the relationship breaks down and one parent abandons the family. In such cases, the principle of the best interest of the child assumes even greater significance, and the courts and statutory authorities must be more, not less, willing to exercise their powers to protect the child's welfare.

13.15. The petitioner No.2, as the mother and sole custodial parent, has every right to determine the name by which her minor daughter shall be known. This is an aspect of parental authority that is recognised under law. The mother's decision to give the child her own family name, particularly in circumstances where the father has abandoned the child, is a reasonable and rational exercise of parental authority that serves the best interest of the child.

13.16. In view of the above, I hold that the relief sought is squarely in the best interest of the minor child, petitioner No.1. The change in name will promote the child's identity, dignity,

well-being, and practical convenience, and is consistent with the principle of the best interest of the child as enshrined in Article 21 of the Constitution and Article 3 of the UNCRC. The matter would have been different if the father were to participate in the upkeep of the child by contributing to the child's maintenance.

13.17. I answer Point No.(iii) by holding that The relief sought is in the best interest of petitioner No.1, the minor child. The change in name will promote the child's identity, dignity, psychological well-being, and practical convenience. The child's right to an identity that reflects her actual familial associations is a fundamental right protected under Article 21 of the Constitution of India.

14. **Answer to Point No. (iv): What Order?**

14.1. In view of the foregoing discussion and the answers to the Points for Determination, I pass the following

ORDER

(i) The Writ Petition is allowed.

(ii) A writ of mandamus is issued directing respondent No.1 – Chief Registrar, Births

and Deaths, Bengaluru – to effect the following changes in the birth certificate of petitioner No.1 issued on 04.03.2017:

a. Change the name of petitioner No.1 from "[redacted]" to "[redacted]";

b. Issue a fresh/new birth certificate reflecting the above changes, upon payment of the prescribed fee as fixed by the government.

(iii) Before the fresh birth certificate is issued, petitioner No.2 shall furnish an indemnity deed to the respondents, in such form as the respondents may prescribe, indemnifying the respondents against any claim that may arise on account of the changes effected pursuant to this order.

(iv) The respondents shall complete the process of issuing the fresh birth certificate within a period of four (4) weeks from the date of furnishing of the indemnity deed by petitioner No.2, and on compliance of such other formalities as may be prescribed.

(v) It is clarified that this order shall not affect the biological parentage of petitioner No.1 and shall not extinguish any rights that petitioner No.1 may have vis-à-vis the biological father under any law for the time being in force, including rights of inheritance, succession, and maintenance.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

PRS/LN

List No.: 3 Sl No.: 1