



2026:KER:37687

“CR”

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 1ST DAY OF JUNE 2026 / 11TH JYAISHTA, 1948

PETITIONER(

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BY ADVS.
SMT.JULIA PRIYA RESHMY
SRI.T.SAJAYAN JACOB
SMT.ABHITHA KHAN

RESPONDENT(S):

1 STATE OF KERALA
REPRESENTED BY DIRECTOR OF PANCHAYATH,
SWARAJ BHAVAN,GROUND FLOOR,NANTHANCODE,
KOWADIAR P.O,THIRUVANANTHAPURAM, PIN - 695003

2 DISTRICT REGISTRAR OF BIRTH AND DEATH
DISTRICT REGISTRAR OFFICE, VALANCHUZHY,
PATHANAMTHITTA, PIN - 689645

3 SECRETARY
PALLICKAL GRAMA PNCHAYAT OFFICE,PALLICKAL,
PAZHAKULAM P O,PATHANAMTHITTA, PIN - 689512

BY ADVS.
SR GP SMT VIDYA KURIAKOSE
SHRI.K.SHAJ, SC, PALLICKAL GRAMA PANCHAYATH,
PATHANAMTHITTA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.06.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“CR”

P.V.KUNHIKRISHNAN, J.

Dated this the 01st day of June, 2026

JUDGMENT

This Writ Petition presents a sad story of the mental trauma faced by a girl child and her parents due to the rigid procedure and statutory rules, which are the law of the land to be followed by the citizens. A child was born to the 1st petitioner in *In Vitro Fertilisation (IVF)* treatment, for which sperm was donated by the 2nd petitioner, her living partner at that time. There was some misunderstanding between the petitioners at that time, and hence the father's name of that child was not mentioned in the birth register. Subsequently, the 2nd petitioner married the 1st petitioner. A second child was also born out of the relationship between the petitioners, in which the father's name is correctly shown as the 2nd petitioner. But in the birth register of the first child, the father's name is still blank. Now the

petitioners, who are the parents of the first child, also want to record the father's name of the first child in the birth register as 2nd petitioner. The Registrar of Birth refused the same, not because the paternity is disputed, but because there are no provisions enabling him to do so. The question before this Court is "stark". Can a technicality arising from an adult conflict arising at the time of birth of the child lead to denying a child the fundamental right to identity guaranteed under Article 21 of the Constitution of India? Can a Birth Register become a permanent scar on a citizen's record, which is the very first public document in his life? A blank space in the birth register can wound deeper than words to the first child, especially when the second child's father's name is correctly shown. I considered the psychological trauma of a child born to an unwed mother, from the angle of the character "Karna" in the ancient epic "Mahabharata". (See ***XXXX and Another v. Registrar of Births and Deaths, Pathanamthitta Municipality (2022 (5) KHC 72)***). Here, in the present

case, both parents want to declare to the world that the second petitioner is the child's father, but the law does not permit it. Viewing from another angle to the story of "Mahabharata", it can be said that "Karna" is not alone; his parents also want to declare his paternity to the world. Can the law be a barrier in front of these loving parents and the first child whose father's name is not in the Birth Register? Mr Bumble, a character in Charles Dickens's novel *OLIVER TWIST*, said in a courtroom that "law is an ass", of course, in connection with that story. The novel above by Charles Dickens was published in 1838, which means it is about 2 centuries old. Even now, some legal provisions in our country are like an ass. But in such situations, it is the duty of the constitutional court to interpret such laws with a human touch. I will narrate the facts in this case in detail.

2. The 1st petitioner and the 2nd petitioner were working in Dubai, and they fell in love with each other. Due to the obstruction by the parents of the 2nd petitioner, he decided to live with the 1st petitioner. But for abundant

caution not to conceive before marriage, they had tried contraceptive methods. After some time, the 1st petitioner wanted to have a child, and due to issues in the 2nd petitioner's family, she decided to become a single mother, a mother with a dependent child who is unmarried. The 1st petitioner started treatment for the purpose of *In Vitro Fertilisation (IVF)* for which sperm was donated by the 2nd petitioner, her living partner and her future husband.

3. It is submitted that the IVF treatment was kept secret from the parents of both the petitioners. The 1st petitioner became pregnant, and she gave birth to a girl child on 14.11.2012, named . After the birth of the child at Lifeline Super Speciality Hospital for Mother and Child, Adoor, which is situated within the jurisdiction of Pallickal Grama Panchayat at Pathanamthitta District, a Birth Certificate was issued by the 3rd respondent, as evident by Ext.P1, in which the father's name is shown 'blank'.

between the parties. Without much effort, the matter was settled between the petitioners, and, in terms of the mediation agreement entered into by the parties, the Family Court passed Ext.P3 judgment. The agreement attached to the Ext.P3 judgment shows that the petitioners have mutually agreed that they are legally wedded couples and that they are the parents of the girl child,

5. The minor child was aged 5 years at the time of the judgment. The 2nd petitioner admitted in the agreement that he is the biological father of the girl child _____, and the birth of the child is due to the donation of sperm by the 2nd petitioner. Both petitioners have mutually agreed that the name of the daughter, _____, must be changed to _____.

Further, they agreed that the name of the father of the child has to be inserted as _____, who is the 2nd petitioner herein, in all corresponding documents of the minor girl, such as Aadhaar Card, Birth Certificate,

Passport, School Certificate, and in all other official documents. Both the petitioners agreed that the matter may be decreed in terms of compromise, and the 1st petitioner herein has further agreed to relinquish the prayer in the O.P for conducting a DNA test of the child to prove the paternity before the Family Court, and hence, Ext.P3 judgment was delivered by the Family Court.

6. The child [redacted] was admitted to her school education using Ext.P1 birth certificate, and the child is now studying in 7th standard at [redacted]

[redacted] Tamil Nadu, since the 1st petitioner is now residing with her parents, who are settled in Tamil Nadu, is the submission.

The second child was born to the petitioners on 14.01.2020, and the child's birth certificate is Ext.P4. Ext. P5 is the Aadhar Card of the second child. In all these documents, the name of the father is shown correctly as [redacted].

The name of the elder child in the school register was changed from [redacted] to [redacted]

Ext.P6 is the certificate issued by the school's Principal. In the Aadhaar card as well, the name was changed. For the future education and for the welfare of the child, the new name of the child, as well as her father's name, are to be added in Ext.P1 birth certificate issued by the 3rd respondent is the submission. Hence, the petitioners approached the 3rd respondent to make necessary corrections/changes in the birth certificate, with a copy of Ext.P3 judgment. But, it is submitted that the 3rd respondent was not ready to accept the application along with the copy of the judgment and refused to change the entries in the certificate.

7. The 1st petitioner issued a lawyer notice to the 3rd respondent, as evident by Ext.P7. The 3rd respondent issued a reply stating that, as per Circular No. B1-15343/2017, issued by the Director of Panchayat on 10.05.2017, birth name correction can be done only after submitting an application with valid documents. He also stated that, since the child's birth was registered on

06.12.2012 as a single parent, the father's name could not be added subsequently. Ext.P8 is the reply from the 3rd respondent. Aggrieved by the same, this Writ Petition is filed.

8. Heard, the learned counsel appearing for the petitioners, the learned Government Pleader and also the learned Standing Counsel appearing for the Panchayat.

9. Now, there is no dispute to the fact that [redacted] is the first daughter of the petitioners. It is an admitted fact that, at the time of [redacted]'s birth, there was no marital relationship between the petitioners, and they were living together. It is also an admitted fact that [redacted] was born after IVF treatment, in which the sperm was donated by the 2nd petitioner. There is also no dispute to the fact that the petitioners settled all their disputes, as evident from the Ext.P3 order of the Family Court. The 2nd petitioner admitted in the agreement appended attached to the Ext.P3 order that he is the biological father of the girl child [redacted]. Therefore,

's father and mother say she is their child. It is also an admitted fact that, subsequent to the marriage of the petitioners, their second child was born, as evident by Ext.P4 birth certificate and Ext.P5 Adhar card. In these documents, the parents' names are shown as the petitioners for the second child. But, by Ext.P8, the Panchayat informed the petitioners that, since

's birth certificate had been registered as a single parent, the father's name could not be subsequently changed, as there is no provision in the Registration of Births and Deaths Act, 1969 (for short 'Act, 1969'), to that effect.

10. As I mentioned earlier, here is a case where the parents of the second child are clearly shown as petitioners, as evident from Exts.P4 and P5. But the first child, , is shown as a child of a single mother. The father's name is blank on 's birth certificate, which is produced as Ext.P1. A blank space can wound more deeply than words. For a child, the blank

space against the father's name in her birth certificate is not merely an empty column, but it is a question mark on her legitimacy, a whisper of stigma, a wound inflicted by her parents' past quarrel. Now, the parents are healed, which resulted in the Ext.P3 order. The petitioners, the parents of _____, approached this Court not as adversaries but as loving parents, requesting that the records also be corrected as well.

11. A perusal of Ext.P8 would show that the Panchayat's stand is only procedural. The family's plea is psychological, and the child's unspoken claim is dignity. In such circumstances, while entertaining a writ petition under Article 226 of the Constitution of India, this Court does not sit to count commas, full-stops, or blanks in the Rules and statutes. This Court sits to ensure that the law does not become the last instrument of psychological cruelty to a child who was never at fault. The law is meant to record life, not to resist it. In this case, life has moved on, but the law has refused to keep pace. _____ was born, and

the father's name was not mentioned in the Ext.P1 birth certificate because of a misunderstanding between the petitioners, who are their parents. Now, the father of

, who is the 2nd petitioner herein, is known, and he accepted _____ as his daughter. But the Panchayat says that a wrong entry in a birth certificate is like something frozen in the past, and it cannot be melted now. In other words, the Panchayat says that its hands are tied by the intricacies of law. But this Court's hands are not tied like that when a genuine claim is raised by a party. The issue is not one of paternity, it is of posterity. What will be the psychological trauma when she becomes an adult? The parents' mistake will be a wound to the child. It is true that there is no provision in the Act of 1969. But, this Court in ***Anitha C v. State of Kerala (2026 (2) KHC 313)***, considered this aspect in detail. It would be better to extract the relevant paragraph of the above-mentioned judgment:

“7. In the light of the above judgment, it is clear that the correction of the birth records is not an

automatic process when an application is filed. The Registrar should be convinced that the grounds mentioned in Sec.15 of the Act, 1969 and Rule 11 of the Rules, 1999 are available. Without such grounds, the Registrar cannot entertain an application for correction of the date of birth invoking the powers under Section 15 of the Act, 1969, r/w Rule 11 of the Rules 1999. In this case, admittedly, there is no DNA test report showing that the 2nd petitioner is the biological father of the 3rd petitioner and not the 4th respondent. Hence, the Registrar has no jurisdiction to entertain an application in this case. That may be why the petitioners approached this Court directly to order a correction to the 3rd petitioner's birth certificate.

8. In the above background, whether this Court should invoke the extraordinary jurisdiction under Article 226 of the Constitution of India is the point to be decided in this case.

XXXX XXXX XXXX XXXX

10. Even then, this Court cannot dismiss the writ petition considering the plight of the 3rd petitioner, who is the minor child and also the innocent former husband of the 1st petitioner, who is the 4th respondent herein. The counsel who appeared for the 4th respondent submitted before this Court that his client has no objection to the correction of the birth certificate as prayed for by petitioners 1 and 2. That is the gentlemanly attitude of the 4th respondent. Moreover, the 3rd petitioner is a minor girl. I do not want her to be in an embarrassing situation when she becomes major, if the father's name is not correctly mentioned in the birth register. Therefore, considering the plight of the minor child and the gentlemanly attitude of the 4th respondent, I think the correction can be allowed, invoking the extraordinary jurisdiction of this Court. If this court finds an injustice to a citizen, it can step in to redress it and ensure complete justice. This court must also imagine the minor child's future. Let the name of the 3rd petitioner's father be correctly mentioned in the birth register before she become major. Let there be

a quietus. But the Registry shall mask the names of the 3rd petitioner and 4th respondent in the cause title of the judgment when uploading it to the official site of this Court. Even if the 1st and 2nd petitioner is not bothered about the same while filing the writ petition by masking the name of the child, this court exercises the principle of 'Parens patriae' rule and protects the privacy of the child. The 4th respondent is also entitled to privacy, and his name should be masked as well. The registry will provide sufficient certified copies of the judgment, along with the details of the 3rd petitioner and 4th respondent, in a separate sealed cover, if a copy application is filed by the petitioners for the purpose of producing the judgment before the 2nd respondent."

12. It is true that there is no provision in the Act of 1969 to correct the name of the child or to add the father's name to a child born to a single mother. But this Court can exercise its extraordinary jurisdiction under Article 226 of the Constitution of India in appropriate cases. This is an appropriate case in which the child wants her father's name on the birth certificate, and the father and mother want to add the father's name to the birth certificate. They also want to add the father's name along with the child's name. In such a situation, this Court should step in and redress the grievance of the petitioners and

Therefore, this writ petition is allowed in the following manner:

(i) Ext.P8 is set aside.

(ii) The respondents 2 and 3 are directed to change the name of the child of the petitioners from ' ' to ' ' and to add the name of her father as

(iii) The competent authority among the respondents 2 and 3 will correct the name of the child and her father's name as above, by making a suitable entry in the margin of the register, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of correction or cancellation. Based on that correction in the register, a fresh birth certificate for ' ' should be issued to the petitioners within 30 days of receipt of this judgment.

Sd/-

**P.V.KUNHIKRISHNAN,
JUDGE**

nvj/AJ

Judgment reserved	NA
Date of Judgment	01.06.2026
Judgment dictated	01.06.2026
Draft Judgment placed	02.06.2026
Final Judgment uploaded	04.06.2026

