

**"CR"**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2026 / 6TH ASWINA, 1948WP(C) NO. 18646 OF 2026PETITIONER/S:1 XXX
XXXX2 XXX
XXXXBY ADVS.
SRI.V.M.KRISHNAKUMAR
SMT.SANJANA JAYAKUMARRESPONDENT/S:1 KOCHI MUNICIPAL CORPORATION
REPRESENTED BY ITS SECRETARY KOCHI MUNICIPAL
CORPORATION OFFICE, MARINE DRIVE, ERNAKULAM.,
PIN - 6820112 REGISTRAR OF BIRTHS AND DEATHS
OFFICE OF REGISTRAR OF BIRTHS AND DEATHS KOCHI
MUNICIPAL CORPORATION, MARINE DRIVE, ERNAKULAM.,
PIN - 682011



2026:KER:74898

*ADDL.R3 XXX

XXXX

*[IS IMPEADED AS PER ORDER DATED 14.07.2026 IN
IA 1/2026 IN WP(C) 18646/2026.]

SRI ANOOP V NAIR, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28.09.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**“CR”****P.V. KUNHIKRISHNAN, J.****-----
W.P.(C.).No.18646 of 2026****-----
Dated this the 28th day of September, 2026****JUDGMENT**

No child should have to lower their head because his/her unwed parents' names were wrongly entered in the birth register and the law of the land offers no simple way to correct it. The circumstances of a child's birth can never stain the child. Children are the nation's most precious jewel. Whether they are born to unmarried parents or whether the parents of the child are not known, or the child is born to a rape victim, is not at all the concern of the country or of "we, the people of India". Once a child is born, he/she is the asset and jewel of this country, and should live like a superstar, irrespective of the circumstances of their birth. When a rigid rule threatens the dignity of a child, or



may hurt his/her mind at least in the future, constitutional courts must stand as a shield to them so that no child is left to bear in silence and tears for a wrong that is never theirs.

2. Now I will come to the facts of this case. I am of the considered opinion that the privacy of the parties in this case should be protected. Accordingly, the petitioners in this writ petition are referred to as 'A' and 'B'. The 3rd respondent is mentioned as 'C'. 'B', a woman, married 'C', a man, on 16.04.2007. They decided to separate and filed a petition under Section 13B of the Hindu Marriage Act for dissolution of marriage. The application was allowed as per Ext.P5 judgment dated 10.11.2021. Thereafter, 'B' started a live-in relationship with 'A'. There was no formal marriage between 'A' and 'B'; they were in a live-in relationship. In the relationship between 'A' and 'B', a girl child was born on 04.02.2026. However, the Birth Register mistakenly recorded the girl child's father's name as 'C' instead of 'A'. The petitioners, 'A' and 'B', approached the local authority



to correct the child's father's name to 'A', and Exts. P1 to P3 are the application and affidavits filed by 'A' and 'B'. Ext. P4 is the joint affidavit filed by the parents of 'B' requesting the change of entry of the father's name in the infant's birth register by substituting the name of 'A' in place of 'C'. Ext. P4 is also not considered is the submission. At this stage, this writ petition is filed with the following prayers:

- i. Issue a writ in the nature of mandamus commanding the 2nd respondent, to consider Exhibit P1 in the light of Exhibit P2 to P4 and correct the entry regarding the name of the father of the petitioner's infant daughter "xxxx" and enter the name of 1st petitioner in view of 11(2) of the Kerala Registration of Births and Deaths Rules, 1999 within such time as may be fixed by this Hon'ble Court.
- ii. Issue a writ in the nature of mandamus commanding the 2nd respondent, to consider Exhibit P1 and enquire into the matter as provided under Rule 11(1) and on satisfaction of the error make the correct entry regarding the name of the father of the infant child "xxxx" and substitute the name of 1st petitioner replacing "C" within such time as maybe fixed by this Hon'ble



Court.

- iii. issue such other orders, writs or directions as are deemed fit by this Hon'ble Court.
- iv. award cost of this proceedings to the petitioner.
- v. dispense with filing of the translation of vernacular documents produced as Exhibits in the writ petition." [sic]

3. Heard the learned counsel for the petitioners and the learned Standing Counsel for the Corporation. Even though notice is issued to 'C', the same is returned with an endorsement "unclaimed". Therefore, this Court declared service of notice on the 3rd respondent complete.

4. The counsel for the petitioners reiterated the contentions raised in this writ petition. Counsel for the 1st and 2nd respondents submitted that once an entry is made in the birth register, there is no provision to change it.

5. This Court considered the contentions of the parties. It is now settled by the dictum laid down by this Court in **Anitha C. v. State of Kerala** [2026 (2) KHC 313] that as per Section 15 of the Registration of Births and



Deaths Act, 1969 (for short, Act 1969) and Rule 11 of the Kerala Registration of Births and Deaths Rules, 1999 (for short, Rules 1999), the correction as requested by the petitioners is not possible. It will be better to extract the relevant portion of the above judgment:

6. This Court in AAA's case (supra) also observed that the correction of an entry in the Register of Births is to be made in accordance with the circular dated 16.12.2015 of the Government. This Court said that the circular mandates that, if the father's name is to be changed in the birth records, a DNA test report, an agreement attested before a Notary Public, and an order from a competent court are to be produced. In that case, the same is not followed, and there is a dispute over paternity. Hence, this Court was pleased to set aside the orders correcting the birth certificate. It will be better to extract the relevant portion of the above judgment.

12. "The powers conferred on a Registrar under S.15 and R.11 are circumscribed and limited to the correction of clerical or formal errors or entries fraudulently or improperly made, and not matters of disputed paternity, which require a full - fledged trial and adjudication, and a judicial imprimatur. Here, the Registrar has substituted the names solely on a joint application and certain documents submitted by the respondents' 7 and 8, and without comprehending the conclusive proof of S.112 of the Indian Evidence Act and Ext.P19 circular dated 16/12/2015 issued by the Local Self



Government Department. The circular mandates that, if the father's name has to be changed in the birth records, a DNA test report, an agreement attested before a Notary Public and an order from a competent Court are to be produced. It is without following the above procedures that the 4th respondent has carried out the substitution."

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 S.15 of the Act, 1969 and R.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 S.15 of the Act, 1969, r/w R.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."

Therefore, the 2nd respondent is justified in not entertaining the petitioner's application for correction in the birth register as far as the father's name of the child is concerned.

6. But here is a case where there is no dispute as to the fact that 'A' and 'B' are the parents of the infant girl



child. 'C' refused to appear before this Court even though notice has been issued to him. This means he admits the petitioners' case in this writ petition. It is a fact that the girl child was born to unwed parents, the petitioners. As stated above, no provision exists for correction of the birth register unless the correction falls within the purview of Section 15 of the Act, 1969, and Rule 11 of the Rules, 1999. The facts in this case reveal that the request will not come within the purview of Section 15 of the Act, 1969, or Rule 11 of the Rules, 1999. No DNA test is available to show that the petitioners are the child's parents. Whether this girl child should be made to prove before the law of the land, by undergoing a DNA test, to show that the petitioners are her parents and not "C"? If the law insists that she has to undergo a DNA test in such a situation, that will be an insult to the child. Then, what is the remedy in such a situation?

7. I am of the considered opinion that children should not have to lower their head because a father's



name was entered in error, nor carry a burden that the law itself refused to lift. When records cannot be corrected because the existing law provides no remedy, I am of the considered opinion that the constitutional courts must step in to ensure the child does not suffer as a result. Let the mistake remain on the pages of the Birth Register, but let it never become a wound in the child's heart.

8. This Court, in **Anitha C's case** (supra) itself observed that this Court can invoke the extraordinary jurisdiction under Article 226 of the Constitution of India, in an appropriate case. It would be better to extract paragraph No.10 of the above judgment:

"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."

9. Keeping in mind the above principle and considering the peculiar facts and circumstances of this case, I think the prayer of the petitioners should be allowed. *Parens Patriae* is a legal term that literally means "parent of the nation". In matters concerning children, it describes the Court's protective role, with the child's welfare and best interests as the paramount concern. Under the doctrine of *Parens Patriae*, the Court can act as the



guardian and protector of minors. If such children face any injustice, the Constitutional Court should step in to redress their grievance. Recently, the Apex Court in ***Shephali Chakraborty v. State of West Bengal*** [2026 KHC 6457] has enunciated the doctrine of *parens patriae* and the duties of the courts.

10. In this case, if the mistake in the birth register continues, it will be an embarrassing situation for all the parties here. When the child becomes a major, she will understand that her father's name was not properly entered in the Birth Certificate, for reasons not attributable to her. No child should suffer because of the lack of provisions in the law to correct a mistake in a Birth Certificate. Therefore, I am of the considered opinion that the prayers in this case are to be allowed.

11. Before parting, I am forced to make certain observations. As I mentioned earlier, a minor child should not suffer because he/she was born to unwed parents and



his/her name was, by mistake, shown as that of another person in the Birth Register. Section 15 of the Act, 1969 and Rule 11 of the Rules, 1999, do not permit such a correction. It is true that a circular has been issued in this regard, which mandates that, if the father's name has to be changed in the birth records, a DNA test report, an agreement attested before a Notary Public, and an order from a competent Court must be produced. When there is no dispute about the paternity of a child, should the child undergo the trauma of undergoing a DNA test to prove his/her identity? I think it should be avoided. The legislature should think seriously to make appropriate amendments to the Act, 1969 and Rule 11 of the Rules, 1999, because no child should suffer or bow his/her head down merely because the name of his/her father or mother is wrongly mentioned in the Birth Register and there is no remedy available to correct the same.

12. The Registry will forward a copy of this



judgment to the Union of India, the Chief Secretary of the State of Kerala, and also the Law Secretary of the State of Kerala to think seriously about it. Meanwhile, this Court can act as the *Parens Patriae* of all children if there is any such genuine request for correction in the Birth Register. In genuine cases, the Constitutional Court should not hesitate to invoke its extraordinary jurisdiction because today's children are the ones who will lead the country tomorrow. In such circumstances, the Court has a duty to act pragmatically. The Court should call the child and redress their grievance in such a situation because it is invoking the jurisdiction of *Parens Patriae*.

13. The children in this country also should know about the court's jurisdiction of *Parens Patriae*. If a situation arises, the children should know that the courts are also there to protect their interests, in addition to their loving father and mother. The best way to do so is to teach them about the courts' *parens patriae* jurisdiction at the school



level. The 5th-standard Malayalam book in the Kerala syllabus includes a beautiful short poem written by Kumaranashan, the legendary Malayalam poet. The poem is about a mother's care and protection for her minor child after the child sustains an injury. The name of the poem is “പരുക്കേറ്റ കുട്ടി” (The Injured child). It would be better to extract the first four lines of the poem:

“അരികത്തമ്പോടു വരുന്നുണ്ടമ്മ ഞാൻ
കരയായ്കോമനേ കരൾ വാടി
പുരികവും ചുണ്ടും ചുളിച്ചു നീ വിങ്ങി-
ക്കരയായ്കോമനേ, വരുന്നു ഞാൻ.”

It portrays a mother's loving words to her child in a simple way with the poetic touch of Kumaranashan. When the child sustains an injury while playing, the mother says: “Mother is coming near you with love, my dear; do not cry with a fading heart.” The mother also says, “Wrinkling your eyebrows and lips, please do not cry, my dear; I am coming.” Just like a mother rushes to her child when the child is injured, the constitutional court also stands to



protect every child if there is an injustice or harm to a minor child, by invoking the jurisdiction under the doctrine of *Parens Patriae*. The State should seriously think about including the court's *parens patriae* jurisdiction in the school syllabus so that every child should know it. I hope the Education Department of the State of Kerala will consider this and enlighten children about this right through classroom discussions and by adding it to the syllabus in textbooks.

With the above observations, the writ petition is allowed, and the following directions are issued:

- (i) The 2nd respondent is directed to consider Ext.P1 application, in the light of Ext.P2 to P4, and correct the entry regarding the name of the father of the petitioners' infant daughter as 'A' instead of 'C' in the Birth Register.
- (ii) The 2nd respondent is directed to correct the name of the father of the child as 'A'



instead of 'C', by making suitable entries 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 such correction in the Register, the 2nd respondent shall issue a fresh Birth Certificate to the petitioners within 30 days of receipt of a copy of this judgment.

(iii) The Registry shall mask the name of the petitioners and the 3rd respondent in the cause title of the judgment and also the name of the child in paragraph 2 of this judgment, where the prayer of the writ petition is extracted, while uploading to the official website of this Court. The Registry will provide sufficient certified copies of the judgment, along with the details of the petitioners and the 3rd respondent, in a separate sealed cover, if the petitioners file a copy application, for the purpose of producing



the judgment before the 2nd respondent.

(iv) The Registry will forward a copy of this judgment to the Union of India, and the Chief Secretary and Law Secretary, the State of Kerala.

Sd/-

P.V.KUNHIKRISHNAN

JUDGE

JV/AJ

Judgment reserved	NA
Date of Judgment	28.09.2026
Judgment dictated	28.09.2026
Draft judgment placed	29.09.2026
Final Judgment uploaded	01/10/26



2026:KER:74898

APPENDIX OF WP(C) NO. 18646 OF 2026

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE APPLICATION DATED 20.5.2026 SUBMITTED BY 1ST PETITIONER BEFORE THE 1ST RESPONDENT
Exhibit P2	A TRUE COPY OF THE AFFIDAVIT FILED BY THE 1ST PETITIONER DATED 20.5.2026
Exhibit P3	A TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND PETITIONER DATED 22.5.2026
Exhibit P4	A TRUE COPY OF THE JOINT AFFIDAVIT FILED BY xxxx AND xxxx DATED 23.05.2026
Exhibit P5	TRUE COPY OF THE JU DGMMENT OF THE FAMILY COURT ALAPPUZHA IN OP(HMA) NO.200/2021 DATED 10.11.2021