

RUNAROUND FOR MOTHER'S NAME ON DOCUMENTS

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The PAN card was the last government document he was waiting for after facing multiple rejections.

Though the Income Tax Department changed its rules in 2018 to allow taxpayers with single parents to provide their mother's name instead of mandatorily providing their father's name as well as the choice between mother's or father's name appearing on the card, the e-application till last month did not accept the same.

When Mr. Sinha applied online for the card on February 2, the portal asked for his father's name yet again, before the system was updated following the intervention of the National Commission for Protection of Child Rights (NCPCR).

His struggle over the years was fraught with frustration — ever since he wished to exercise his right as a child to decide which parent's name he wanted in his documents.

“Why should father's name be the only measure of identity. My father was never present in my life, I have never had any relationship with him,” he said.

After completion of high school in Kolkata, when he approached his school principal for the School Leaving Certificate (SLC) without his father's name, little did he realise the battle was going to be a long-drawn one. His father is from Nepal and mother from Bhagalpur, Bihar, and they separated when he was two years old.

After much debate, Mr. Sinha — who uses his mother's maiden name — got his SLC as a special case. But, hurdles popped up between 2015 and 2017, when he applied for Aadhaar and passport. “My application was repeatedly rejected and I realised it was not normal but perceived strange when a single woman raises a child independently in a patriarchal society like ours,” he said.

Each time we went to the respective offices with the application, we were welcomed with dirty looks and snide remarks, Ms. Smriti recalled.

The mother and son were apparently driven to such humiliation that they dashed off a mail to then External Affairs Minister Sushma Swaraj and then Minister for Women and Child Development Maneka Gandhi.

Following similar complaints and a petition on change.org by another single mother, passport rules were amended in December 2016 requiring the applicant to provide the name of father or mother or legal guardian.

Mr. Sinha wonders why something so simple as his right was made so hard for him but this is a common grievance that often forces single mothers to go to courts.

A public interest litigation (PIL) petition in the Madras High Court in September last year by advocate B. Ramkumar Adityan sought that it be made mandatory to furnish the mother's name in addition to the father's name in all deeds, affidavits, government documents, school and college certificates, licence and so on.

Indian laws accord superiority to the father in case of guardianship of a minor.

In Islamic law, the father is the natural guardian, but custody vests with the mother until the son reaches the age of seven and the daughter reaches puberty, though the father's right to general supervision and control exists.

In a landmark judgment in *Githa Hariharan v Reserve Bank of India* in 1999, the Hindu Minority and Guardianship Act (HMGA) was challenged for violating the guarantee of equality of sexes under Article 14 of the Constitution and the Supreme Court held the term "after" should not be taken to mean "after the lifetime of the father", but rather "in the absence of the father". But the judgment failed to recognise both parents as equal guardians, subordinating a mother's role to that of the father. Though the courts are bound to follow this under Law of Precedents, the HMGA has not been amended.

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