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**(2025) 08 GAU CK 0347**  
**In the Gauhati High Court**  
**Case No : PIL Of 60 Of 2022**

Basu Deo Agarwal

APPELLANT

Vs

Union Of India And 4 Ors

RESPONDENT

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**Date of Decision :** 26-08-2025

**Acts Referred:**

**Citation :** (2025) 08 GAU CK 0347

**Hon'ble Judges :** M. Zothankhuma, J

**Bench :** Single Bench

**Advocate :** D Deka, N J Kumar

**Final Decision :** Dismissed

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## **Judgement**

M. Zothankhuma, J

1. Heard Mr. D. Deka, learned counsel for the petitioner and Mr. R.K.D. Choudhury, learned Dy. SGI for the respondent nos.1, 2 & 3. Mr. D.K. Sharma, learned counsel appears for the respondent nos.4 & 5. No

one appears for the State.

2. The petitioner has filed this Public Interest Litigation (PIL) praying for a direction to be issued to the respondent authorities to modify/alter/amend the Rules/Guidelines, in relation to disclosing the 'original place of birth' of adopted children while issuing Passports/Birth Certificates or any other Certificate, as it allegedly violates and infringes upon the right of privacy of the said person.

3. The petitioner's counsel submits that as per Regulation 45 of the Adoption Regulation of 2017, the authorities involved in the process of adoption must maintain confidentiality of adoption records, except as permitted under any law. He also submits that as per the Regulation 12(10) of the Adoption Regulation of 2017, the Specialized Adoption Agency is to carry out the necessary act of issuance of Birth Certificates in cases of adopted children, post adoption order by the Court. Under this Sub-Regulation, the Specialized Adoption Agency has been

directed not to disclose the names of the biological parents and instead endorse the names of only adopted parents in the Birth Certificates. As the Regulations have tried to uphold the confidentiality of the adopted child by requiring not to disclose the names of the biological parents, the Place of Birth of an adopted child should not be put in the Passports/Birth Certificates of the adopted child. He also submits that in the case of an adopted child, there was no need for an unwed mother to disclose the identity of the child's father in the Birth Certificate as she can be the sole local guardian of the child.

4. Mr. R.K.D. Choudhury, learned Dy. SGI, on the other hand submits that in terms of the Circular No.1/7/2011-VS(CRS) dated 12.03.2012 issued by the Office of the Registrar General, Ministry of Home Affairs, Government of India, in case an adopted child has not been registered under the ambit of Registration of Births and Deaths (RBD) Act, 1969, the place where the Adoption Agency is located shall be treated as the Place of Birth of the child. In the event of the Date of Birth of the child being not known, the same as determined by the Chief Medical Officer or any duly licenced Physician and as reflected in the adoption order/deed issued by the local Magistrate shall be recorded as the Date of Birth of the child in the birth reporting form. Besides the Date of Birth, the names of the adopted parents and address of the parents, as contained in the adoption order/deed, along with a number and date of the order shall be entered in the birth reporting form. The names of the parents shall also be entered in the birth reporting form. He also submits that it is only when the Date of Birth of the adopted child has already been recorded, the above Circular would not be made applicable. He submits that the Place of Birth and Date of Birth as mentioned in the original Birth Certificate will not undergo any change and shall remain as it is, unless the same has not been recorded earlier. He has also referred to paragraph 3(a) of the above Circular dated 12.03.2012, wherein it has been stated that the term 'adoptive parents' or 'adopted child' shall not be used in the Birth Certificate. The name of the adoptive parents shall appear as 'parents' (father and mother of the child) in the Birth Certificate. The address of adoptive parents shall be recorded as the address of parents at the time of birth of the child in the Birth Certificate. He accordingly submits that there are many instances across the country in which place the occurrence of birth of a child is different from the place of residence or State of the parents. This may be due to several reasons and the argument made by the petitioner that mentioning the place of birth of the adopted child in the Birth Certificate, in a place different from that of the adopted parents, will establish that the child is adopted, is not correct.

5. We have heard the learned counsels for the parties.

6. The petitioner's case is that the mandate of mentioning the original Place of Birth of an adopted child in the Passport or Birth Certificate or other documents is a violation of the right to privacy of the adopted child and adopted parents. In the case of ABC vs. The State (NCT of Delhi), reported in (2015) 10 SCC 1, the

Supreme Court had held that there was no need for an unwed mother to disclose the identity of a child's father in the Birth Certificate, as the mother could be the sole legal guardian of the child. The above decision of the Supreme Court has been made keeping in view the best interest of the child. However, the issue of whether the original Place of Birth of the adopted child should not be mentioned in a Passport or Birth Certificate or other documents is a different issue, inasmuch as, while there might not be difficulty in cases where the adopted child is a baby, the Place of Birth of a school going orphan would have already been recorded in the documents of the authorities, including the schools in which the orphan attends. As such, it would not be practicable to alter the original Place of Birth of the orphan, once the school going orphan is adopted.

7. Regulation 12(10) and 45 of the Adoption Regulation of 2017 states as follows :

"12(10) The Specialised Adoption Agency shall apply to the birth certificate issuing authority for obtaining the child within three working days from the date of issuance of adoption order, with the name of adoptive parents as parents, and date of birth as recorded in the adoption order and the same shall be issued by the issuing authority within five working days from the date of receipt of the application."

45. Confidentiality of adoption records - All agencies or authorities involved in the adoption process shall ensure that confidentiality of adoption records is maintained, except as permitted under any other law for the time being in force and for such purpose, the adoption court order may be displayed in any public portal."

8. A perusal of paragraph-9 of the amended writ petition shows the reason why the present PIL has been filed, wherein it is stated that the petitioner had recently seen a Passport issued to an adopted child, who had been legally adopted by following all norms and provisions, as mandated by the authorities. However, in the said Passport the petitioner was appalled to see that while the adoptive parents were from the State of Assam and their names had been endorsed as the parents in the Passport, the Place of Birth of the child showed a different State, implying the fact that the child was not from the same State as the child's parents and that the child was not the biological child of the parents named in the Passport.

9. The reason given by the petitioner for filing the present PIL has not taken into account the fact that the children of many couples are born not only in different States, but in different countries. They may be born even in different Districts of a State. Though it could be argued that poor people do not move as much as rich people or Government servants, the fact remains that even poor people move around looking for jobs in other States/countries. As such, a poor person who is looking for a job in another State, may have a child born in another State and not in the State in which he/she was born. On that ground alone, we are hard-

pressed to find a reason as to whether the reason for filing the present PIL can be in public interest.

10. The prayer of the petitioner for not recording the Place of Birth of an adopted child in a Passport and Birth Certificate does not appear to be reasonable, inasmuch as, a child can be adopted when it is a baby and when it is at the age of 10 and above also. An orphan who has reached the age of 5/6 years would definitely be going to school as per the Right to Education Act, 2009, wherein his/her Place of Birth would already have been recorded in the records of the State authorities and the school in which he/she attends. How would the Place of Birth of the said orphan child thereafter be amended, if the said school going child is subsequently adopted. Further, a piquant situation would arise when there is no restriction on recording the Place of Birth of a child born and living with their biological parents, while not recording the Place of Birth of an adopted child.

11. Though the reasons for filing this PIL is laudable, the prayer of the petitioner does not appear to be practical, as it appears that the petitioner is only thinking of adoption of babies. However, when juxtaposing the same with adopting school going children, who may be even 10/11 years old, it would be unreasonable and impractical to change their Place of Birth, after they have had their Place of Birth recorded in the records for the last 10/11 years.

12. Regulation 1 & 3(a) of the Circular dated 12.03.2012 states as follows :

"1. Children taken on adoption through Institutions

In the adoptions taking place through institutions, the details of the parents may or may not be known and the birth of the child may or may not be registered. The procedure for both the cases, i.e., the birth already registered and not yet registered is dealt separately.

i. Birth not registered and name(s) of parents known

(a) In case the birth of the adopted child has not been registered, the 'place where the adoption agency is located' shall be treated as the 'place of birth' of the child. In the event of the date of birth of the child being not known, the same as determined by the CMO or any duly licensed Physician and as reflected in the adoption order/deed issued by the local Magistrate shall be recorded as the date of birth of the child in birth reporting form. Besides the date of birth, the name(s) of adoptive parent(s) and address of adoptive parent(s) as contained in the adoption order/deed along with the number and date of the order shall be entered in the birth reporting form. The name(s) of parents shall also be entered in birth reporting form.

(b) The concerned Registrar of the area where the adoption agency is located shall register the birth on the basis of adoption deed and duly filled-in birth reporting form, and issue the birth certificate with the name(s) of adoptive parent(s).

ii. Birth not registered and name(s) of parents not known

(a) In case the birth of the adopted child has not been registered, the 'place where the adoption agency is located' shall be treated as the 'place of birth' of the child. In the event of the date of birth of the child being not known, the same as determined by the CMO or any duly licensed Physician and as reflected in the adoption order/deed issued by the local Magistrate shall be recorded as the date of birth of the child in birth reporting form. Besides the date of birth, the name(s) of adoptive parent(s) and address of adoptive parent(s) as contained in the adoption order/deed along with the number and date of the order shall be entered in the birth reporting form. The column for name(s) of parents shall remain blank in birth reporting form. :

(b) The concerned Registrar of the area where the adoption agency is located shall register the birth on the basis of adoption deed and duly filled-in birth reporting form, and issue the birth certificate with the name(s) of adoptive parent(s).

iii. Birth registered

(a) A birth shall be treated as registered only when supported by the original birth certificate or a copy thereof. The place of birth and the date of birth as mentioned in the original birth certificate will not undergo any change and shall remain as it is. However, on the basis of details contained in adoption order/deed, requisite changes will be made in the name of child, name of adoptive parent(s) and address of adoptive parent(s) by the Registrar where the birth was originally registered.

(b) In order to facilitate the entire process, the Registrar in whose jurisdiction the adoption agency is located shall send the duly filled birth reporting form along with the adoption order/deed and the copy of the original birth certificate to the Registrar where the birth was originally registered. The Registrar shall also make a request to effect changes in the name of child, name of adoptive parent(s) and address of adoptive parent(s) in the birth records and send the revised birth certificate to him/her for being provided to the adoptive parent(s)."

"3. The following points may also be taken care of while making entries in the birth reporting form / changes in the birth record.

(a) The term 'adoptive parents' or 'adopted child' shall not be used in the birth certificate. The name of adoptive parents shall appear as 'parents' (father and mother of the child) in the birth certificate. The 'address of adoptive parents' shall be recorded as the 'address of parents at the time of birth of the child' in the birth certificate."

13. On going through the above provisions of the Circular dated 12.03.2012 issued by the Office of the Registrar General, Ministry of Home Affairs, Government of India, we are of the view that guidelines/procedure adopted for making/changing entries in the birth record for children taken on adoption are

practicable. Accordingly, we find the procedure/guidelines for making/changing entries in the birth record for children taken on adoption, in terms of the Circular dated 12.03.2012 at paragraph nos.1 & 3(a) to be quite reasonable and which do not require interference at this stage.

14. The PIL is accordingly closed.