

## DOES A MOTHER NEED A PREFIX TO BE A PARENT???

### *Abstract*

*Family structures in India are evolving, yet administrative systems often remain rooted in patriarchal assumptions that treat motherhood as incomplete without the presence of a father. In a significant and progressive ruling, the Bombay High Court has challenged this long standing bias by asking a simple but powerful question must a child's identity always be tied to the father, even when the mother alone has raised, nurtured, and stood as the only parent in the child's life???* The Court recognised that forcing a father's name onto a child's identity is not a legal necessity, but a social habit shaped by outdated norms.

*Affirming the dignity of single mothers, the Court held that a child brought up solely by the mother cannot be compelled to carry the father's surname, caste, or identity merely to satisfy rigid formats. The judgment sends a strong constitutional message that a mother is not half a parent, and her child does not need a prefix to belong.*

### **Introduction**

For generations, women have been taught to measure their worth through the roles society assigns to them. A woman is expected to be a perfect daughter, a devoted wife, and above all, a mother who puts her family before herself. In many parts of Indian society, motherhood has long been treated not as a choice, but as a duty and a woman who could not or did not have children was often judged, pitied, or considered incomplete. There was a time when a woman's presence in social spaces was defined by her marital and maternal status, and those who did not fit into this mould were quietly excluded. Although education and changing times have helped people recognise that motherhood is only one of the many roles a woman may choose to take on, the social mindset has not fully changed.

Even today, women who choose to raise children on their own are forced to face questions, stigma, and unnecessary scrutiny. In a deeply patriarchal system, motherhood is respected only when it exists within the traditional family structure, and single mothers are often made to feel as though they are breaking a rule rather than fulfilling a responsibility. This biasness becomes even more visible in matters of guardianship, custody, and official recognition, where women are not always given equal authority over their own children. The struggle therefore, is not just about legal rights, but about social acceptance about recognising that a woman does not become a complete parent because of a man's presence, but because of her own strength, care, and commitment.

## Problems faced by a Single Parent

**“Father’s name is compulsory”** - this line appears to be a simple administrative requirement, but in reality, it reflects a deeply rooted social mindset that still hesitates to accept a mother as a complete and independent guardian. For years, official forms and institutional practices have silently reinforced the idea that a child’s identity must be linked to the father, even in situations where the mother alone has given birth, raised, and cared for the child. However, with changing times, it has become necessary to question these assumptions. Should identity continue to be dictated by tradition, or should it reflect the lived reality of the child and the parent who truly stands by them? The growing recognition of single mothers and non-traditional families challenges the belief that parenthood requires validation through a father’s name, and calls for a legal and social framework that respects dignity, equality, and truth.

Being a single parent in Indian culture has always been a difficult job. As a result of widespread misconceptions about single parents' ability to provide for their kids, this is often frowned upon in Indian culture. Single-parent raised children can be just as usual, healthy, and happy as those raised in two-parent households. Challenges such as poverty, social exclusion, and restricted access to services like childcare and higher education are common among single parents in India. Traditional gender roles frequently demand that women should be married and have kids within the structure of a nuclear family, which can lead to stigma and prejudice against single mothers.

Courts in India have, however, begun to challenge this imbalance. In <sup>1</sup>Vindhya Saxena v East Delhi Municipal Corporation, the Delhi High Court observed that a father does not own the child and that a minor has the right to choose to use the mother’s surname. Similarly, in <sup>2</sup>Akella Lalitha v. Konda Hanumantha Rao, the Court recognised that when the mother is the only natural guardian, she has the authority to decide the child’s surname. These decisions acknowledge that a child’s name shapes not only official records but also personal identity and social acceptance. Despite this, mothers and children who choose the maternal surname still face several practical and legal hurdles. Changing names in birth certificates, school records, and identity documents often becomes a long and exhausting process. In matters of inheritance and property, where lineage is closely tied to the father’s family name, children may encounter difficulties in proving their rights, especially under personal laws where ancestral property traditionally passes through the paternal line. The struggle, therefore, is not only about a surname it is about recognition, equality, and the right of a mother to have her identity carry the same legal and social weight as that of a father.

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<sup>1</sup> <https://blog.primelegal.in/child-has-the-right-to-use-mothers-surname-delhi-high-court/>

<sup>2</sup> <http://indiankanoon.org/doc/121271688/>

## Laws regarding Single Parenting and Guardianship Rights of a Single Mother

Under Indian law, the rights of children and the responsibilities of parents do not disappear merely because the family does not fit into the traditional structure. The rights of a mother, father or other guardian are regulated by the Guardianship and Wards Act of 1890 and the <sup>3</sup>Hindu Minority and Guardianship Act of 1956 (HMGA). According to Section 6 of the HMGA, in the case of a married pair, the father has priority over the mother in terms of guardianship. Nonetheless, the woman takes legal custody of a child born outside of marriage, and the father bears no duty or liability in such a circumstance. The Hindu Adoptions and Maintenance Act, 1956 ensures that a child, including one born outside marriage, has the right to receive maintenance. The law applies to Hindus, Jains, Sikhs, and Buddhists, and recognises that either parent can be directed by the court to provide financial support, depending on the circumstances. The amount of maintenance is determined by considering the needs of the child, the financial capacity of the parents, and the standard of living the child is entitled to. These provisions are especially significant in the case of single mothers, who often bear the primary responsibility of raising the child and must rely on legal protection to secure the child's welfare.

Similarly, the Juvenile Justice (Care and Protection of Children) Act, 2015 acknowledges that parenthood is not limited to married couples. The law permits adoption by a single parent, including a single woman, provided that the court is satisfied that the adoptive parent is capable of offering financial stability, emotional support, and a safe environment for the child. This recognition reflects an important shift in the legal system accepting that a mother alone can provide a complete, secure, and nurturing upbringing, and that the validity of parenthood does not depend on the presence of a father, but on the ability to care for the child with responsibility and dignity. In this context, the constitutional validity of giving automatic preference to the father under Section 6 of the HMGA was also challenged before the Supreme Court of India, on the ground that Articles 14 and 15 of the Constitution of India guarantee equality before the law and prohibit discrimination, thereby questioning whether such a provision unfairly undermines the equal status of the mother as a natural guardian. Such challenges mark an important step towards recognising that the law must evolve with society, and that motherhood, when carried with full responsibility, deserves the same legal authority, respect, and recognition as fatherhood.

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<sup>3</sup> <https://www.indiacode.nic.in/bitstream/123456789/1649/1/195632.pdf>

## Conclusion

The rights guaranteed by the Constitution of India made the majority of laws fair after independence, but family laws were not modified. Laws that were already unfair were made even more so. And that's before we even consider the stigmatization they'll face in our administration and the social stigma and emotional distress they'll have to endure. The information about the father is required in all forms (and sometimes only the details of the father). Divorced, unwed, and single moms nonetheless face hardships despite legal and judicial protections for their status. The ideal of the "complete happy family of four" has been so ingrained in the public consciousness that a single mother's decision to raise her children on her alone is met with widespread disapproval. Natural guardianship rules should be rewritten to give mothers more legal protection, especially in light of the increasing number of unmarried moms. Article 14 of the Indian Constitution assures that everyone is treated equally. Hence, the state should recognize and try to create conditions in which a voluntarily single mother and her kid can flourish as much as those of a child born into a married relationship.

The question, *Does a mother need a prefix to be a parent?* finds a clear answer that *no Parenthood is defined by responsibility, care, and lived reality, not by social expectations*. The ruling of the Bombay High Court reinforces the idea that the Constitution protects dignity over tradition and equality over assumption. When the law allows records to reflect truth, it also allows society to move forward. Recognising a single mother as a complete parent is not a favour granted by the system.

It is a right acknowledged by the Constitution. And when identity is recorded with honesty, dignity follows not only in documents, but in society itself. She gives birth, she raises, she sacrifices yet she is still asked for a father's name to prove the child belongs.

***The question is no longer whether a mother can raise a child alone. The real question is when she already does, why does the system still hesitate to recognise her as enough????!!!!***