

Can privacy trump parentage? Why Supreme Court upheld DNA test in paternity case

The court held that the alleged father had denied paternity consistently for over two decades, and there was no other evidence on record to answer the question. Here's what to know.

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In paternity disputes, Section 112 of The Indian Evidence Act is invoked, which aims to grant legitimacy to every child born in a wedlock. Photo: Unsplash

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1



The Supreme Court last month dismissed a challenge to orders that directed a man to undergo a **DNA test** in a civil suit filed by a person claiming to be his biological son and, in

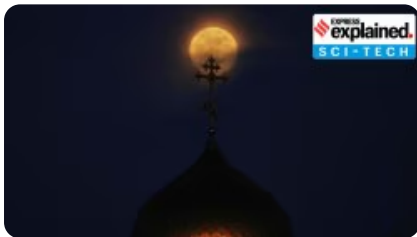
doing so, reiterated an understanding of when the courts can and cannot direct such tests.

The bench of Justices Sanjay Karol and N Kotiswar Singh held that “as far as the right of privacy is concerned, we are balancing, in this case CP’s privacy with [alleged son’s] desire for closure on a question that has loomed large on his life throughout”.

The claim arose from a civil suit filed by the respondent who attained majority, which sought a declaration of paternity and a share in the property of the father, who had denied the claim of his parentage since 1999.

The bench noted that three questions determine whether a DNA test can be directed: if paternity is “directly in issue”, if there is “any other evidence-on-record” capable of substituting for it, and if ordering the test is “in the best interest of the parties and/or justice”.

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The court held that the alleged father, CP, had denied paternity consistently for over two decades, and there was no other evidence on record to answer the question. Weighing his right to privacy against the alleged person’s interest in establishing parentage and pursuing inheritance rights, the court thus upheld the DNA testing of CP to **determine paternity**. In doing so, it said, “If no positive answer is ever found out to the question, it is quite possible that [he] would forever be denied the rights he may otherwise be entitled to by virtue of being CP’s son.”

The legal framework

In paternity disputes, Section 112 of The Indian Evidence Act is invoked, which states that any child that is born during a valid marriage or within 280 days since the dissolution of the

marriage is the legitimate child of the husband “unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten”.

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The intent of the section is to grant legitimacy to every child born in a wedlock. When a presumption applies, the courts have held that dislodging it requires proof of non-access which is not merely suspicion or assertion.

Previous Supreme Court cases

As of yet, there are no provisions that expressly authorise the courts to order DNA testing. The jurisprudence emerges on a case-by-case basis and is framed through precedents.

In 1993, the Supreme Court in the case of *Goutam Kundu v. State of West Bengal* held that a DNA test “cannot be ordered as a matter of course” by the courts and that applications that seek DNA testing “in order to have roving inquiry” cannot be entertained. It also observed that “no one can be compelled to give sample of blood for analysis”. The bench further held that courts must consider whether ordering the test “will have the effect of branding a child as a bastard and the mother as an unchaste woman”.

In the case of *Dipanwita Roy v. Ronobroto Roy* (2014), the court permitted DNA tests where it is necessary to resolve the dispute, but also noted that “if the direction to hold such a test can be avoided it should be avoided. The reason is that... the legitimacy of a child should not be put to peril.”

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In the case of *Aparna Ajinkya Firodia vs Ajinkya Arun Firodia* (2023), the bench of Justices V Ramasubramanian and B V Nagarathna held that parties must first lead evidence. A DNA may be ordered when the court finds it “impossible to draw an inference based on such evidence”. The court in that case held that “children have the right not to have their legitimacy questioned frivolously before a Court of Law. This is an essential attribute of the right to privacy. Courts are therefore required to acknowledge that children are not to be

regarded like material objects, and be subjected to forensic/DNA testing, particularly when they are not parties to the divorce proceeding.”

Further, in the case of *Ivan Rathinam v. Milan Joseph* (2025), the bench of Justices Surya Kant and Ujjal Bhuyan introduced the “balance of interests” exercise, the bench said that “courts must protect the parties’ rights to privacy and dignity by evaluating whether the social stigma from one of them being declared ‘illegitimate’ would cause them disproportionate harm. On the other hand, courts must assess the child’s legitimate interest in knowing his biological father and whether there is an eminent need for a DNA test.” The bench held that to order a DNA test, the parties must prove that the evidence is insufficient and that such a test may not cause undue harm to the parties.

The bench of Justices Sanjay Karol and N Kotiswar Singh had, in *Nikhat Parveen v. Rafique* (April 2026), reiterated that “the common thread that has run through all these judgments is a well-placed hesitation to order or to give an imprimatur to orders directing DNA test to be conducted”.

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