



2026:DHC:3264



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Pronounced on: 20.04.2026+ W.P.(C) 16096/2024, CM APPLs.67638/2024 & 20198/2026

GUR KAUR MINOR &amp; ORS.

.....Petitioners

Through: Ms. Nandita Rao, Sr. Advocate along with Ms. Mrinalini Sen, Ms. Aditi Singh, Mr. Karan Mishra and Mr. Ankur Raghav, Advocates.

versus

UNION OF INDIA &amp; ANR.

.....Respondents

Through: Ms. Arunima Dwivedi, CGSC along with Mr. Akash Pathak, GP, Ms. Swati, Ms. Himanshi Singh and Ms. Monalisa Pradhan, Advocates for R-1 & R-2.

**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioners seeking the following prayers:

- “(i) Pass a Writ, Order, or Direction in Mandamus and direct the Respondent No.2 to issue NOC to the Petitioners herein as stipulated in Regulation 67(3) of the Adoption Regulations, 2022; and*  
*(ii) Pass a Writ, Order, or Direction in Mandamus and direct Respondent No. 2 provide a copy of the NOC to the Foreign Adoption Agency and change the status of Petitioner No. 1’s Application bearing no. RCAN201906122785 on the portal; and*  
*(iii) Pass a Writ, Order, or Direction in Mandamus and declare the actions of the Respondent No.2 in issuing a Support Letter instead of an NOC as illegal; and*  
*(iv) Award the costs of the present Petition in favour of the Petitioner;”*

2. The petitioners are aggrieved by the refusal of the Central Adoption Resource Agency (CARA) to issue a No Objection Certificate (NOC) in



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respect of the relocation application of petitioner no.1, a minor child adopted by petitioner nos. 2 and 3.

3. The factual background of the present matter, as set forth by the petitioners is that petitioner no.2 is an Indian Citizen holding Permanent Resident Status in Canada and is the legally wedded wife of petitioner no. 3, who is a Canadian citizen and an Overseas Citizen of India (OCI) cardholder.

4. Petitioner no.1 (born on 02.03.2018), was adopted by petitioner nos. 2 and 3 (adoptive parents) in accordance with Sikh customs on 08.09.2019. A passport bearing no. T7410837 was issued in the name of petitioner no.1 on 09.09.2019.

5. On 07.03.2019, the adoptive parents approached Cornerstone Adoption Agency, Canada (the Foreign Adoption Agency) for the purpose of relocating petitioner no.1 to Canada.

6. An Adoption Deed dated 08.02.2021 was executed under the Hindu Adoption and Maintenance Act, 1956 (HAMA, 1956). Pursuant to the said Adoption Deed, the Office of Civil Surgeon Moga, issued a birth certificate in the name of petitioner no.1 on 12.07.2021, recording petitioner nos. 2 and 3 as adoptive parents.

7. Pursuant thereto, the adoptive parents, for the purpose of relocation of petitioner no.1 to Canada, initiated the procedure as contemplated under Regulation 22B of the of the Adoption (Amendment) Regulations, 2021 (hereinafter “2021 Regulations”). In terms thereof, the District Magistrate, Ferozepur, Punjab, furnished a Verification Report dated 18.04.2022 as per Schedule XXXIII and a Family Background Report as per Schedule XXXIV





9. Subsequently, *vide* e-mail dated 10.10.2023, the Foreign Adoption Agency in Canada communicated to petitioner no.3 that the CARA portal reflected the relocation application of petitioner no.1 as “Application Rejected” with the remark that “The matter cannot be taken up as it is related to HAMA”. The said e-mail dated 10.10.2023 reads as under:

--- Forwarded message ---

**From:** "Patti Russell" <prussell@cornerstoneadoption.ca>  
**To:** "kangentl@yahoo.com" <kangentl@yahoo.com>  
**Cc:** "Ramani Jayakumar" <rjayakumar@rogers.com>  
**Sent:** Tue, 10 Oct. 2023 at 9:30  
**Subject:** Update

Dear Mr. and Mrs. Kang:

Please see "screen shot" from the CARA website in respect to your adoption application. It appears that CARA has "rejected" your application due to you proceeding with a HAMA adoption.

11	CANADA	CORNERSTONE ADOPTION AGENCY	RCAN201906122785	Parminder Kaur Kang Ratinderpal Singh Kang	4168072209	info@cornerstoneadoption.ca	<table border="1"> <tr> <th>Child Name</th> <th>Gender</th> <th>Date of Birth</th> </tr> <tr> <td>Gurkaur</td> <td>Female</td> <td>02/03/2018</td> </tr> </table>	Child Name	Gender	Date of Birth	Gurkaur	Female	02/03/2018	Punjab Firozpur	Application Rejected	18/08/201927/09/2023 The matter cannot be taken up as it is related to the HAMA	Pre-Approval File	NOC File	Conformity File
Child Name	Gender	Date of Birth																	
Gurkaur	Female	02/03/2018																	

Regards,  
Patti

10. The Foreign Adoption Agency further informed the petitioners that in the absence of the requisite NOC from CARA, the petitioners’ application could not be processed.

11. Aggrieved thereby, the petitioners filed an application dated 29.12.2023 under the Right to Information Act, 2005 (RTI Act), seeking information regarding the status of the said relocation application before CARA. The said application filed under the RTI Act was rejected under Section 8(1)(j) of the said Act.



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12. Thereafter, the petitioners addressed a legal notice to the CEO, CARA, which, however, elicited no response.

### **SUBMISSIONS ON BEHALF OF THE PARTIES**

13. Learned senior counsel for the petitioners submits that in terms of Regulation 22B of Chapter IV-A of the Adoption (Amendment) Regulations, 2021, once the verification report was furnished by the District Magistrate, in terms of Schedule XXXIII of the said Regulations, CARA was bound to comply with the provisions thereof. Considering that the receiving country, i.e., Canada, is a signatory to the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention), CARA was required to issue an NOC. Instead, CARA issued a 'Support Letter'. It is further contended that the rejection of the petitioners' relocation application is contrary to the Adoption (Amendment) Regulations, 2021.

14. It is contended that the adoption under HAMA, 1956, being a valid statutory adoption recognized under Indian law, cannot be disregarded. The refusal of CARA to issue an NOC undermines the principle of best interest of the child which is paramount in matters of adoption and relocation.

15. Per contra, learned counsel for the respondents submits that the present case pertains to an adoption that occurred prior to the notification of the Adoption (Amendment) Regulations, 2021 dated 17.09.2021. It is submitted that the adoptive parents (petitioner nos. 2 and 3) failed to comply with the procedural requirements under Regulation 22B, including submission of the requisite certificates as per Articles 5 and/or 17 of the



Hague Convention. In view of such non-compliance, CARA issued a Support Letter on 22.11.2022, in place of an NOC.

16. It is further submitted that the jurisdiction of CARA is confined to adoptions processed under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter “Juvenile Justice Act”) and the Adoption Regulations framed thereunder and that adoptions effected under HAMA, 1956 fall outside its purview. Therefore, in the absence of CARA’s authority to issue NOC in respect of such adoptions, issuance of a Support Letter was the only permissible course of action.

### **REASONING AND CONCLUSION**

17. The language of Chapter IV-A of the Adoption (Amendment) Regulations, 2021 is unambiguous. The caption / title of the said Chapter IV-A reads as “Procedure for children adopted under the Hindu Adoption and Maintenance Act, 1956 by parents who desire to relocate the child abroad”. The language used in the title itself makes it abundantly clear that the provisions contained in Chapter IV-A are intended to govern situations such as the present case, where adoptive parents, having effected a valid adoption under HAMA, 1956, seek to relocate the child abroad.

18. Regulation 22B of Chapter IV-A of the Adoption (Amendment) Regulations, 2021 reads as under:

*“22B. Procedure in the case of registered adoption deed.—(1) In the cases where the adoption deed has already been executed in pursuance of adoption under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), before the commencement of the Adoption (Amendment) Regulations, 2021, the requisite documents supporting the facts of the adoption deed shall be duly verified and recommended by the District Magistrate in the format as provided in Schedule XXXIII.*

*(2) On receipt of the verification of documents as per Schedule XXXIII,*



*the Central Adoption Resource Authority shall comply with the provisions of Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention.*

*(3) Upon receiving such certificate, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and in cases of countries outside the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, a letter accepting the said adoption from the Government department concerned of the receiving country shall be sought by the Central Adoption Resource Authority in order to issue the final support letter from the Central Adoption Resource Authority.”*

19. It is not disputed that petitioner no.1 was adopted by petitioner nos.2 and 3 under the HAMA, 1956 and that an Adoption Deed was executed in pursuance thereof on 08.02.2021, prior to the commencement of the 2021 Regulations, which came into force on 17.09.2021. Evidently, the District Magistrate, Ferozepur, Punjab, in terms of Regulation 22B(1) and as per Schedule XXXIII, furnished a Verification Report dated 18.04.2022. Therefore, the terms of Regulation 22B(1) stand complied.

20. Regulation 22E(1) provides as under:

*“22E. Issue of no objection certificate and Conformity Certificate.—(1) On receipt of verification certificate from the District Magistrate, on the registered adoption deed and necessary permission under Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention on Protection of Children and Co-operation in respect of inter-country Adoption, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and Conformity Certificate under Article 23 shall be issued by the Central Adoption Resource Authority subsequently.”*

21. Articles 5 and 17 of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention) are as under:

*“Article 5*

*An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State -*



- a) have determined that the prospective adoptive parents are eligible and suited to adopt;*
- b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and*
- c) have determined that the child is or will be authorised to enter and reside permanently in that State.*

*Article 17*

*Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if -*

- a) the Central Authority of that State has ensured that the prospective adoptive parents agree;*
- b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;*
- c) the Central Authorities of both States have agreed that the adoption may proceed; and*
- d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.”*

22. The language of Regulation 22B(2) read with Regulation 22E(1) of the 2021 Regulations clearly conveys the mandate that compliance with the provisions of Articles 5 and/or 17 of the Hague Convention is the responsibility of CARA, once the verification of documents (verification report) as per Schedule XXXIII is received. Further, Regulation 22B(3) requires CARA itself to procure the requisite certificate.

23. It is pertinent to note that even under the Adoption Regulations, 2022 (hereinafter “2022 Regulations”) the procedure applicable to adoptions already concluded under HAMA, 1956 (prior to commencement of the 2021 Regulations) remains unchanged. The position in this regard is encapsulated in Regulation 67 of the Adoption Regulations, 2022. The same reads as under:

**“67. Procedure in the case of registered adoption deed.—(1) In the**



*cases where the adoption deed has already been executed in pursuance of adoption under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), before the commencement of the Adoption (Amendment) Regulations, 2021, the requisite documents supporting the facts of the adoption deed shall be duly verified and recommended by the District Magistrate in the format as provided in Schedule XXXV.*

*(2) On receipt of the verification of documents as per Schedule XXXV, the Central Adoption Resource Authority shall comply with the provisions of Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention.*

*(3) Upon receiving such certificate, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and in cases of countries outside the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, the Central Adoption Resource Authority shall issue a support letter upon receiving a letter accepting the said adoption from the Government department.”*

24. It is evident from the words of Regulation 67 that upon receipt of the verified documents (supporting the adoption deed) as per the format provided in Schedule XXXV, it is incumbent upon CARA to pursue the matter further for the purpose of ensuring compliance with the provisions of Articles 5 and/or 17 of the Hague Convention.

25. It would be wholly contrary to the purport of the express language of Regulation 22B of the 2021 Regulations, as also Regulation 67 of the 2022 Regulations to leave prospective parents in the lurch, despite the fact that the adoption under HAMA, 1956 stood completed prior to the commencement of the 2021 Regulations.

26. It is thus, untenable for CARA to abdicate its responsibility by issuing a mere support letter instead of pursuing the matter with the concerned authorities of the recipient State and issuing an NOC upon conclusion of such formalities. Equally untenable is the contention that the 2021



Regulations and / or the 2022 Regulations are inapplicable in respect of adoptions concluded under HAMA, 1956.

27. The language of the afore-quoted Regulations leaves no manner of doubt that they clearly delineate and cast obligations on CARA in respect of adoptions already concluded under HAMA, 1956, prior to the commencement of 2021 Regulations. The Regulations expressly mandate that in such a situation, CARA “shall comply” with the provisions of Article 5 and/or 17 of the Hague Convention.

28. It is also pertinent to note that Article 7 of the Hague Convention provides as under:

*“Article 7*

- (1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.*
- (2) They shall take directly all appropriate measures to -*
  - a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;*
  - b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.”*

29. In terms thereof, it is incumbent upon the concerned authorities in both the State of origin as well as receiving State to cooperate with each other in the paramount interest of the welfare of the child.

30. If this Court were to accept the contention made by the respondents, it would imply that even where an adoption validly takes place under HAMA, 1956, the adoptive parents would be precluded from seeking approval for the relocation of the adopted child under 2021 Regulations. Such a construction cannot be accepted. The express wording of the 2021 Regulations leaves no manner of doubt that in such situations, it is



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incumbent on CARA to pursue the matter for conduct / conclusion of the exercise contemplated under Articles 5 and 17 of the Hague Convention.

31. In the present case, the confusion that has arisen is encapsulated in e-mail dated 27.03.2023 addressed by the CARA to the Canadian authorities, as also the response thereto dated 28.03.2023 addressed by the Canadian authorities. The said e-mails are as under:

**From:** prussell@cornerstoneadoption.ca  
**To:** "Shivani Chauhan" <shivani.chauhan0208@govcontractor.in>  
**Cc:** "ShriNandreshNigam ShriNandreshNigam" <nandreshnigam.cswb@gov.in>, "PURNIMA THAKUR" <purnima.nipccd@gov.in>  
**Sent:** Tuesday, March 28, 2023 1:05:51 AM  
**Subject:** Re: Inter-country Relative Adoption of child Gurkaur DoB: 02/03/2018 vide CARINGS Reg. ID RCAN201906122785 by Mr. Parminder Kaur Kang and Mrs. Ratinderpal Singh Kang

Dear Ms. Chauhan:

Thank you for your email. Is it possible for a HAMA adoption to be reversed/revoked? In order that the PAPs can proceed with the adoption under the JJ Act as they were registered for.

As advised, the PAPs took matters into their own hands by proceeding with a HAMA adoption.

I look forward to hearing from you.

Kind regards,  
Patti

On Mar 27, 2023, at 2:19 AM, Shivani Chauhan <shivani.chauhan0208@govcontractor.in> wrote:

Dear Mrs. Patti Russell

Thanks a lot for the update. As per information provided, the case seems to be completed under HAMA Act. Please confirm, may I now move forward towards closure of this case for adoption under JJ Act? At present, the case is still visible as 'under process' on CARINGS.

Thanks and regards

Shivani Chauhan  
CARA

32. It is apparent that the concerned officials have proceeded on a misconception and have completely missed the point that in terms of the



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applicable Regulations, where an adoption under HAMA, 1956 stood concluded prior to the commencement of 2021 Regulations, it was incumbent upon CARA to follow up/facilitate compliance with the requirements of Article 5 and/or 17 of the Hague Convention.

33. Thus, CARA is under obligation to pursue the matter with the Canadian authorities so as to ensure that all the regulatory requirements in the receiving State are complied with. Instead of pointing out this position to the Canadian authorities, no response appears to have been sent by CARA in response to the aforesaid e-mail dated 28.03.2023.

34. The official/officer of CARA, who was present in Court, submitted during the course of hearing that CARA's only concern is that the child be duly received in Canada. In line with the mandate of Article 7(1) of the Hague Convention, CARA is directed to appropriately liaise with the Canadian authorities and also convey the regulatory and statutory position as set out hereinabove. It is noted that there is no objection on behalf of CARA as regards validity of the adoption. This position should be made clear to the Canadian authorities, with the request to expeditiously conclude the exercise as contemplated under Articles 5 and/or 17 of the Hague Convention.

35. CARA is further directed to issue an NOC to the petitioners upon conclusion of the aforesaid exercise.

36. The petition is disposed of in the above terms. Pending applications also stand disposed of.

37. The date already fixed *i.e.* 14.05.2026 stands cancelled.

**SACHIN DATTA, J**

**APRIL 20, 2026/ss**