



2026:DHC:5217



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment pronounced on: 01.07.2026+ **W.P.(C) 13156/2025****MS.KARNIKA KHANDELWAL, REPRESENTED BY ABHINAV KHANDELWAL AND HEMA PANDEY**Petitioner

Through: Ms. Arundhati Katju, Sr. Adv., Mr. Dhanur Dhar Singh, Ms. Jaispriya Poply, Advs.

versus

UNION OF INDIA & ANR.Respondents

Through: Dr. Monika Arora, CGSC, Mr. Subhrodeep Saha, Ms. Anamika Thakur and Mr. Abhinav Verma, Advs. for CARA.

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

1. The present petition has been filed by the petitioner (a minor child represented by her adoptive parents, Mr. Abhinav Khandelwal and Ms. Hema Pandey), being aggrieved by the refusal of the Central Adoption Resource Authority (CARA) to issue a No Objection Certificate (NOC) and a Conformity Certificate in respect of the petitioner's adoption.

2. The factual background set forth by the petitioner is that the petitioner, born on 20.06.2023 was adopted in accordance with the Hindu customs on 27.06.2023 by the adoptive parents Mr. Abhinav Khandelwal and Ms. Hema Pandey, of Indian origin, holding Australian citizenship and registered as Overseas Citizens of India.



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3. Subsequently, an Adoption Deed dated 05.03.2024 was executed under the provisions of the Hindu Adoption and Maintenance Act, 1956 (HAMA, 1956). A birth certificate was thereafter issued in the name of the petitioner on 06.11.2024, recording the adoptive parents as the parents of the petitioner.

4. On 12.03.2025, the adoptive parents applied through the CARINGS portal of the respondent no.2/ CARA, seeking issuance of an NOC. The said application was rejected by CARA *vide* communication dated 19.06.2025, directing compliance with the procedure prescribed under Chapter VIII of the Adoption Regulations, 2022 and in particular Regulation 68 thereof, which requires sponsorship of the application by the Central Authority or Authorised Foreign Adoption Agency (AFAA) in the receiving country, that is, Victoria, Australia herein. The said communication dated 19.06.2025 is enclosed as Annexure P-4 to the present petition. The same reads as under:

No. E:126342-CARA/77/2025

Date: 19.06.2025

To,

Mr. Abhinav Khandelwal

Mrs. Hema Pandey

R/o D-212, Mahesh Marg, Malviya Nagar,

(Jaipur 302017), Rajasthan

Email: pandeyhema399@gmail.com

abhi.khandu@gmail.com

Subject: Regarding Adoption under HAMA, as per the Adoption Regulations 2022 of the child Karnika Khandelwal (F) DoB: 20.06.2023

Madam/ Sir,

It is with reference to your online registration on CARINGS portal. It is observed that the registration no. CAU2025113576 is for the OCI category to adopt the OAS Children. This category is specifically for children of the OAS category and is not applicable to the children already adopted under HAMA. In view of the above, Please refer enclosed Adoption Regulations, 2022, Chapter VIII Section 68 that states the procedure for inter-country Adoption, in the cases initiated after 17th



September, 2021, (Copy attached for ready reference).

68. Procedure for inter-country Adoption-

(1) *In the cases initiated after 17th September, 2021, the following standard common procedure shall be applicable for all inter-country adoptions concluded under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), by eligible non-resident Indians or Overseas Citizen of India Cardholders, who are to take a child in adoption from India.*

(2) *Any Hindu prospective adoptive parents habitually residing abroad and who wish to adopt an Indian Hindu Child born to Indian Hindu Parents, residing in India, may contact an Authorised Foreign Adoption Agency or the Central Authority in case of Hague ratified countries and the government department concerned in case of Non-Hague countries in their country of habitual residence as the case may be.*

(3) *The Authorised Foreign Adoption Agency or the Central Authority or the government department concerned in their country of habitual residence shall sponsor the application of eligible and suitable prospective adoptive parents to the Central Adoption Resource Authority.*

(4) *The Central Adoption Resource Authority shall share the sponsoring letter and other requisite information about the parents received from the Authorised Foreign Adoption Agency or the Central Authority or the Government department of the receiving country, as the case may be, with the District Child Protection Unit and the District Magistrate of the district where the child is habitually residing.*

(5) *The District Magistrate shall get a family background report prepared which shall include all required documents related to the biological parents and the child proposed to be adopted and the report shall be conducted through the District Child Protection Officer as provided in Schedule XXI and Schedule XXXVI.*

(6) *Upon receipt of the family background report, the Central Adoption Resource Authority shall forward it to the concerned Authorised Foreign Adoption Agency, or Central Authority, in their country of habitual residence for issuing necessary permission under Article 5 or 17 (Hague Adoption Convention ratified countries) as the case may be.*

You are advised to follow the above mentioned procedure.

5. It is the case of the petitioner that compliance with Regulation 68 of



the Adoption Regulations, 2022 is rendered impossible in the present matter, inasmuch as under Australian law, “Adoption Victoria” does not process adoptions executed under HAMA, 1956, India being categorised as a ‘non-active country programme’. Further, the Australian Government has a clear policy against issuance of NOCs or letters of support in cases of ‘expatriate adoption’.

6. During the course of hearing, learned counsel for the petitioner has handed over a copy of an e-mail dated 28.10.2025, addressed by the Intercountry Adoption Australia, Australian Government to the adoptive parents, wherein it was categorically stated that the adoption of the petitioner under HAMA, 1956 has been classified as an ‘expatriate adoption’. The same, *inter alia*, reads as under:

“For Australian migration purposes, the private HAMA adoption you completed is classified as expatriate adoption. Expatriate adoptions are not automatically recognised under Australian law, even if parental responsibility has already been legally granted in the overseas country. The Australian Government's involvement in expatriate adoptions is limited to the Department of Home Affairs (Home Affairs) determining whether the child meets all immigration criteria to enter and remain in Australia, once an application has been lodged. This includes the requirement that the adoptive parent/s must not have lived overseas to avoid Australia's intercountry adoption laws.”

7. Learned counsel for the petitioner places reliance upon the judgment rendered by the Bombay High Court in ***Mangesh Bhaskarrao Manwatkar & Ors. vs. Union of India & Ors.*** (W.P (C) 16232/2025), wherein, the Court held that although Regulation 68 of the Adoption Regulations, 2022 would ordinarily govern adoptions undertaken post 17.09.2021, peculiar circumstances, such as adoptions within close relatives under HAMA, 1956 and/or adoptions classified as expatriate adoptions by the Australian authority, necessitate recourse to Regulation 69 thereof. The relevant



extracts are as under:

“33. In the present case, since the adoption has taken place after the introduction of the Adoption Regulations 2022, which are specifically introduced for the purpose of regulating adoption of children, such Regulations would apply. On considering the language used in Regulation 67, it is quite obvious that this Regulation would not apply to this case since it deals with cases where the adoption has already been executed under HAMA, prior to the commencement of Adoption (Amendment) Regulations 2021.

34. Actually, Regulation 68 would apply to this case because it applies to cases initiated after 17.09.2021, which have to follow the Standard Common Procedure for all Inter-Country adoptions concluded (to be read also as ‘to be concluded’, considering the future tense) under the HAMA, by eligible NRI or OCI, who are to take a child in adoption from India. Sub Clause 2 clears all doubts about the applicability of Regulation 68 with the opening words ‘Any Hindu prospective adoptive parents habitually residing abroad and who wish to adopt...’ . In the case before us, the adoption has already taken place under the HAMA. Ideally, the Petitioners should have followed Regulation 68, as the adoption has taken place after 17.09.2021. However, in the peculiar facts and circumstances of this case, the procedure under sub-clauses (2) to (6) cannot be enforced upon this case as the adopted child is from the family of a close relative and the adoption has legally taken place under the HAMA. These events now cannot be reversed only because the procedure under Regulation 68 was not followed. We have to consider the future of the adopted baby as well.

35. Regulation 69 prescribes the adoption process and considers the case of parties to an adoption already concluded under the HAMA. This Regulation will have to be read as being applicable to the case of the Petitioners because the language used in Regulation 67 applies to Adoption Deeds already executed under HAMA prior to the 2021 Regulations, which has subsequently been replaced by the 2022 Regulations. Hence, considering the language used in Regulation 69, the said Regulation is being made applicable to this case, only due to the peculiar facts before us. Strictly speaking, Regulation 68 would have applied to this case, but for the peculiar facts as recorded above. Regulation 68, therefore, will apply independently to cases not covered by Regulation 67.

36. We find that the facts of this case are quite peculiar. The adoption has legally taken place under the HAMA. The Australian authority clearly mentions in it’s email dated 28.04.2025, that this is not an Inter-



Country adoption. It has formed an opinion that this is an expatriate adoption. It has also stated that this expatriate adoption falls outside Australia's regulated Inter-Country adoption process. An Indian Passport has also been issued by the Government of India to the adopted daughter indicating the names of her adoptive parents in the Passport. Regulation 41(18) enables CARA to issue an NoC in cases of adoptions under chapter VIII (Inter-Country adoptions under HAMA) in cases of the Hague Adoption Convention ratified Countries.

37. In Jasleen Iqbal Sidhu (supra), it has been held that even the Australian authorities (Department of Home Affairs, Australian Government) had interacted with the Petitioner and the learned Single Judge Bench, therefore, concluded that the District Magistrate should undertake a verification exercise. A support letter from CARA is required for all HAMA adoption deeds, under the 2022 Regulations. Such support letter is needed for validating the adoption for Inter-Country movement/settlement of the adopted child. The facts in Jasleen Iqbal Sidhu (supra) and in Prema Gopal (supra), are also quite peculiar and similar to the case in hands, as is evident from the narration of the facts in those cases.

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39. We have kept in mind the stand taken by 'Inter-Country Adoption Australia' vide its communication dated 28.04.2025 via email, that expatriate adoptions fall outside Australia's regulated Inter-Country adoption process and are, therefore, not considered as Inter-Country adoptions.....It is apparent that the said authorities need the appropriate authority in India to do the scrutiny and indicate it's clearance. This authority is CARA. Having considered the above peculiar circumstances, inasmuch as the stand of 'Inter-Country Adoption Australia' authority that the present adoption is not Inter-Country adoption, Articles 5 and 17 of the Hague Convention would not apply in this case.

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41. Considering the above, we are of the view that the Petitioners, adoptive couple, will have to follow Regulations 69 and 70 of the Adoption Regulations, 2022. Since Regulation 69(1) has already been complied with, the adoptive couple will have to approach the District Magistrate who would conduct an inquiry to satisfy itself that all the provisions of HAMA, have been followed. Such inquiry shall be completed within 30 days. Keeping in view the passage of time, we would not appreciate if the District Magistrate seeks extension of time under



clause (3) of Regulation 69.

42. On receipt of the verification certificate on the registered Adoption Deed from the District Magistrate, we deem it appropriate to follow the recourse adopted by the Hon'ble Supreme Court in Prema Gopal (supra) and by the High Courts in Jasleen Iqbal Sidhu (supra) and R. K. and another (supra). CARA would issue a NOC under intimation to the Immigration Authority of India and the Immigration Authority of Australia, within 15 days of the submission of the District Magistrate's verification certificate."

8. Learned counsel for the petitioner further places reliance upon the judgment rendered by the Gujarat High Court in ***Akshay Pitamber Sarvakar & Anr. vs. Central Adoption Resource Authority & Ors.*** (R/Special Civil Application No. 15710 of 2025). The operative directions therein are as under:

"7. I have heard the learned counsel for the respective parties and have considered the facts of the petition. It appears that in the instant case, the twin children were adopted prior to the actual execution of the deed but the deed was executed on 29.09.2022. As provided under the provisions of HAMA, 1956, in the circumstances, Regulation 67 relating to the date of adoption is subsequent to the commencement of the Adoption (Amendment) Regulations, 2021, however, as mentioned in the present case, I am of the opinion that there can be no hurdle in the way of the respondents to consider the case of the petitioner. I direct respondent Nos. 1 and 2 to consider the case of the petitioner and issue the necessary certificates as required by the Australian authorities to fulfill and comply with the requirements. All the necessary documentary evidences were already furnished by the petitioner before respondent Nos. 1 and 2. However, in case any of difficulty, the petitioners may again supply the necessary documentary evidences within a period of one week from today and on receipt of the said application, respondent Nos. 1 and 2 shall consider the case of the petitioner herein having regard to the relevant provisions of the Regulations 2022 and in accordance with law bearing in mind the facts that the adoption took place on 29.09.2022 and the children were born on 22.02.2022. In the event of any difficulty, the petitioner shall personally remain present before respondent No. 2 through it's legal representatives to make necessary submissions before the authority and after considering the same the entire exercise shall be completed by respondent Nos.1 and 2 within a period of four weeks from the date of hearing of the present petitioner. The respondent No. 1 shall



issue Support Letter in the particular format as prescribed. On such Support Letter being issued, the petitioner shall take steps for the purpose of immigration recognition and registration of the children who have been adopted by the necessary order in that regard before this Court. The said No Objection Certificate shall be in the format as observed by the Hon'ble Apex Court in the case of Prema Gopal (supra) and the authority is directed to issue the certificate in that manner only as required."

9. Learned counsel for the respondents submits that respondent's refusal to issue the NOC qua the petitioner's application was premised upon the absence of a sponsoring letter from the receiving country, which is a prerequisite under Regulation 68 of the Adoption Regulations, 2022. He further points out that the petitioners in ***Akshay Pitamber Sarvakar*** (supra), were in possession of a communication from the Australian Government, Department of Home Affairs, prescribing the procedure to be followed for 'adoptions where the adoptive parents are unable to provide an NOC from the state and territory central authority due to residing in a non-participating Australian state. The relevant extract/s from ***Akshay Pitamber Sarvakar*** (supra) reads as under:

"6. Mr. Juneja, learned counsel for the petitioner submitted that the petitioner received a letter from the Australian government, Department of Home Affairs dated 27.02.2026 wherein the procedure was prescribed in the said letter and the relevant documentary evidences as mentioned in the said letter reads as under:

"Other requirements

The department acknowledges that Adoption Victoria is not accepting applications to adopt a child from India that are completed under the Hindu Adoptions and Maintenance Act, 1956 (HAMA).

For intercountry adoptions where the adoptive parents are unable to provide a NOC from the state and territory central authority due to residing in a non-participating Australian state, Please follow the below procedure.



The following documents are required:

- 1. If the adoption is not already registered through CARINGS portal, the applicant is to liaise with District Magistrate office (where the child is residing) for verification of their HAMA adoption deed.*
- 2. Applicant provides verification documents to CARA.*
- 3. CARA issues a support letter.*
- 4. Applicant requires to provide a copy of the CARA support letter to the Department of Home Affairs.”*

10. The language of the said communication makes it evident that the procedure outlined therein is not specific to or limited to the petitioners in ***Akshay Pitamber Sarvakar*** (supra), rather, the procedure is of a general application to all similarly placed applicants, i.e., those whose adoptions have been executed under HAMA, 1956 and classified as expatriate adoptions by the Australian Government.

11. As noted hereinabove (in para-6), that even in the present case, the Australian adoption authorities sent an e-mail to the petitioner stating that the Australian Department of Home Affairs is concerned with determining whether the child meets all immigration criteria to cater and remain in Australia. For this purpose, the necessary NOC is required from CARA.

12. Respective counsel for the parties are in agreement that the facts of the present case are squarely covered by the dicta of the Bombay High Court in ***Mangesh Bhaskarrao Manwatkar*** (supra), and the Gujarat High Court in ***Akshay Pitamber Sarvakar*** (supra).

13. In the circumstances, in line with the directions issued in the aforesaid judgments, Central Adoption Resource Authority (CARA) is directed to issue the necessary No Objection Certificate (NOC).

14. The said exercise shall be undertaken after the necessary inquiry is conducted by the concerned District Magistrate and a certificate is issued in



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the format prescribed under Schedule XXXV and XXXVI, as required under Regulation 69 of the Adoption Regulations, 2022.

15. The concerned authorities, including the District Magistrate and CARA are directed to expedite the process, bearing in mind the welfare and future of the minor child.

16. The petition is disposed of in the above terms.

SACHIN DATTA, J

JULY 1, 2026/ss