

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.528 OF 2025**

Shri Gulak Sadhan Jamatia,
aged about 58 S/o Late Gouranga Kumar Jamatia, residence of
Dewan Chara, P.O Pitra Bazar, Udaipur, Gomati, Tripura.

.....Petitioner(s)

VERSUS

1. Child Welfare Committee,
West Tripura Represented by Chairperson,
Government of Tripura, Social Welfare Office,
Ujan Abhoynagar, Tripura

2. The State of Tripura,
Represented by the Chief Secretary,
Government of Tripura, Civil Secretariat,
P.O New Capital Complex 799010,
P.S New Capital Complex, District, West Tripura.

3. Directorate of Social Welfare and Social Education,
Represented by the Secretary,
Government of Tripura, Malancha, Ujan Abhoynagar,
Agartala, West Tripura

.....Respondent(s)

For Petitioner(s)	: Mr. D. Reang, Advocate. Mr. P. M. Kalai, Advocate. Mr. P.K. Kalai, Advocate.
For Respondent(s)	: Mr. P. Gautam, Sr. G.A. Mr. Kohinoor N.Bhattacharyya, G.A.
Date of hearing and delivery of judgment and order	: 06.02.2026.
Whether fit for reporting	: YES.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

1. Heard Mr. D. Reang, learned counsel, Mr. P.M. Kalai, learned counsel and Mr.P.K Kalai, learned counsel appearing for the petitioner as well as

Mr. P. Gautam, learned Sr. G.A. and Mr. Kohinoor N. Bhattacharyya learned G.A., appearing for the State-respondents.

2. The present proceeding arises out of an order dated 27.01.2025 passed by the Child Welfare Committee, West Tripura, Agartala in connection with Registration No. PrTr169679136, whereby the adoptive parents of the child were directed to deposit an amount of Rs.5,00,000/- in relation to allegations stated to be of a serious nature concerning the adopted child.

3. It is the case of the petitioner that they have been caring for the adopted child as their own and that no complaint had earlier been received from neighbours, relatives, or any other persons alleging ill-treatment of the child. According to the petitioner, the child was taken into custody pursuant to a complaint. It is contended that the impugned order was passed without examining the genuineness and consistency of the child's statement. Reference has been made to certain discrepancies in the complaint, including differences in language used in the heading, narration, and signature, which, according to the petitioner, cast doubt on the manner in which the statement was recorded.

4. The petitioners also challenge the authority of the Child Welfare Committee to impose a monetary penalty, contending that under the Juvenile Justice (Care and Protection of Children) Act, 2015, the Committee is empowered to ensure care, protection, rehabilitation, and restoration of children, but does not possess jurisdiction to impose fines or penalties. It is further noted that the impugned order records that non-compliance with the direction to deposit the said amount may result in further legal consequences, including action under the provisions of the POCSO Act.

5. Aggrieved by the said order dated 27.01.2025, the petitioners have approached this Court seeking the following reliefs:-

“a. For an order quashing and setting aside the order dated 27.1.2025 passed by the Child Welfare Committee, West Tripura asking the petitioner to pay a fine of Rs 5,00,000/-(Rupees Five Lakh) on the basis of false allegation.

b. For an order or direction directing the Child Welfare Committee, West Tripura to hand over the child to the adopted legal parents immediately.

c. Pending hearing and final disposal of this Writ Petition for an ad-interim order staying the order dated 27.1.2025 passed by the Child Welfare Committee, West Tripura.

d. For an order directing the Respondent No 1 not to pass any order until the final disposal of the present petition.

AND/OR

Pass such further order and/or direction as Your Lordships may deem fit and proper for the ends and in the interest of Justice.”

6. At the time of hearing, the child, the adoptive parents, and the officer from the Child Welfare Committee, Agartala, is present before this Court.

7. Upon calling the case, the child is examined by the Court. During such examination, the child clearly expressed her unwillingness to stay with the adoptive parents and repeatedly stated her desire to be separated from them. The child refused to recognize the adoptive parents, declined to respond regarding the nature of the relationship, and avoided interacting with them and hesitated to see their face.

8. Initially, the adoptive parents expressed their concern and emotional attachment towards the child. However, in view of the consistent and categorical stand taken by the child, the adoptive parents have also agreed to proceed with dissolution of the adoption in accordance with law.

9. This Court has thereafter heard the learned counsel for the parties and perused the impugned order as well as the records placed before it. Upon such consideration, it appears that the decision-making process leading to the impugned order dated 27.01.2025 did not adequately reflect due consideration of the relevant facts and statutory limitations governing the powers of the Child Welfare Committee.

10. The impugned order dated 27.01.2025 passed by the Child Welfare Committee, West Tripura, Agartala, whereby a fine of Rs.5,00,000/- (Rupees Five Lakhs) was imposed, cannot sustain in law as the same have been passed without jurisdiction.

11. The impugned order dated 27.01.2025 is extracted here-in-below:-

” ORDER

Regarding number of prospective adoptive parents PrIr169679136

In the matter of the child namely Nandini Jamatia alias Sohana Khatun, date of birth 15-03-2016 presented before the Child Welfare Committee, West Tripura District against allegations of child molestation and torture by her adoptive parents, the following order is passed:

The child was brought before the Child Welfare Committee, West Tripura by the GB Out Post Police station and Childline following a complaint that the adoptive parents named Sri. Golak Sadhan Jamatia & Smt. Lakhya Rani Jamatia (adoptive parents) a residence of RIPSAT Quarter Complex, quarter No Type-IV B, Agartala, West Tripura. Cont. No-8414039549 (present address) and Nitya Para (Dewan Chara) P.O- Pitra Bazar. P.S- Killa, Udaipur, Gomati Tripura-799114 (permanent address), who had adopted the child vide District Magistrate of Kamrup District, Amingaon, P.O- Amingaon, P.S- North Gowahati, P.S-North Gowahati-781031, Assam order of application number 01/2024 from the Specialized Adoption Agency, Sishu Greh, Assam, Child and Women's Welfare Society (ACWWS), Ramkrishna Mission Road, Ulubari, Gowahati-781007 under the norms of the Central Adoption Resource Authority (CARA), have been involved in the mistreatment of the child, including charges of child molestation and physical abuse.

After counseling and careful consideration of the child statement, it is noted that the child has expressed a strong desire not to return to her adoptive parents but to stay in Agartala, Tripura for her safety and well-being.

In light of the serious allegations and the child wish to remain in a safe environment, it is hereby ordered that the adoptive parents shall pay a fine of Rs. 5,00,000/- (Rupees five lakhs) only for the welfare of the child. This amount will be used for the immediate care, rehabilitation and future welfare of the child.

This amount must be deposited within 60 days into the joint account established by the District Child Protection officer (DCPO) and District Magistrate & Collector (DM) A/C No-50200102487063.

The amount shall be deposited with the Child Welfare Committee, West Tripura within 60 days of this order. The concerned authority (District Child Protection Officer & District Magistrate) will ensure the proper utilization of this fund for the best interest of the child, including medical, education, psychological and emotional support.

The child will be placed in a safe and suitable environment of her continued care and further steps will be taken by the Child Welfare Committee, West Tripura to ensure her protection and well-being. Also Open Shelter for Children, Melarmath is further instructed to make efforts to search her biological parents.

A thorough investigation into the allegations against the adoptive parents will be conducted by the concerned authorities and appropriate legal action shall be taken based on the findings.

The adoptive parents are hereby directed to comply with this order. Non-compliance will result in further legal consequences and actions might be taken under legal provisions of POCSO Act. as per the child statement.

This order is passed in the best interest of the child and to ensure her safety, health and future well-being."

12. Now lets us extract the relevant paragraphs of Juvenile Justice(Care and Protection of Children) Act, 2015 defining the power, function and responsibilities of the Child Welfare Committee:-

“29. Powers of Committee.—(1) The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

(2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

30. Functions and responsibilities of Committee.—The functions and responsibilities of the Committee shall include—

- (i) taking cognizance of and receiving the children produced before it;***
- (ii) conducting inquiry on all issues relating to and affecting the safety and well-being of the children under this Act;***
- (iii) directing the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee;***
- (iv) conducting inquiry for declaring fit persons for care of children in need of care and protection;***
- (v) directing placement of a child in foster care;***
- (vi) ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection, based on the child’s individual care plan and passing necessary directions to parents or guardians or fit persons or children’s homes or fit facility in this regard;***
- (vii) selecting registered institution for placement of each child requiring institutional support, based on the child’s age, gender, disability and needs and keeping in mind the available capacity of the institution;***
- (viii) conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvement in quality of services to the District Child Protection Unit and the State Government;***
- (ix) certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together;***
- (x) ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed;***
- (xi) declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry;***
- (xii) taking suo motu cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members;***
- (xiii) taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012 (32 of 2012);***
- (xiv) dealing with cases referred by the Board under sub-section (2) of section 17;***
- (xv) co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government;***

(xvi) in case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or childline services, as the case may be;
(xvii) accessing appropriate legal services for children;
(xviii) such other functions and responsibilities, as may be prescribed.

36. **Inquiry.**—(1) On production of a child or receipt of a report under section 31, the Committee shall hold an inquiry in such manner as may be prescribed and the Committee, on its own or on the report from any person or agency as specified in sub-section (2) of section 31, may pass an order to send the child to the children's home or a fit facility or fit person, and for speedy social investigation by a social worker or Child Welfare Officer or Child Welfare Police Officer:

Provided that all children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in a Specialised Adoption Agency, where available.

(2) The social investigation shall be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child:

Provided that for orphan, abandoned or surrendered children, the time for completion of inquiry shall be as specified in section 38.

(3) After the completion of the inquiry, if Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialised Adoption Agency if the child is below six years of age, children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child, as may be prescribed, or till the child attains the age of eighteen years:

Provided that the situation of the child placed in a children's home or with a fit facility or person or a foster family, shall be reviewed by the Committee, as may be prescribed.

(4) The Committee shall submit a quarterly report on the nature of disposal of cases and pendency of cases to the District Magistrate in the manner as may be prescribed, for review of pendency of cases.

(5) After review under sub-section (4), the District Magistrate shall direct the Committee to take necessary remedial measures to address the pendency, if necessary and send a report of such reviews to the State Government, who may cause the constitution of additional Committees, if required:

Provided that if the pendency of cases continues to be unaddressed by the Committee even after three months of receiving such directions, the State Government shall terminate the said Committee and shall constitute a new Committee.

(6) In anticipation of termination of the Committee and in order that no time is lost in constituting a new Committee, the State Government shall maintain a standing panel of eligible persons to be appointed as members of the Committee.

(7) In case of any delay in the constitution of a new Committee under sub-section (5), the Child Welfare Committee of a nearby district shall assume responsibility in the intervening period.

37. **Orders passed regarding a child in need of care and protection.**—(1) The Committee on being satisfied through the inquiry that the child before the Committee is a child in need of care and protection, may, on consideration of Social Investigation Report I[***] and taking into account the child's wishes in case the child is sufficiently mature to take a view, pass one or more of the following orders, namely:—

- (a) declaration that a child is in need of care and protection;
- (b) restoration of the child to parents or guardian or family with or without supervision of Child Welfare Officer or designated social worker;
- (c) placement of the child in Children's Home or fit facility or Specialised Adoption Agency for the purpose of adoption for long term or temporary care, keeping in mind

the capacity of the institution for housing such children, either after reaching the conclusion that the family of the child cannot be traced or even if traced, restoration of the child to the family is not in the best interest of the child;

(d) placement of the child with fit person for long term or temporary care;

(e) foster care orders under section 44;

(f) sponsorship orders under section 45;

(g) directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child, including directions relating to immediate shelter and services such as medical attention, psychiatric and psychological support including need-based counselling, occupational therapy or behaviour modification therapy, skill training, legal aid, educational services, and other developmental activities, as required, as well as follow-up and coordination with the District Child Protection Unit or State Government and other agencies;

(h) declaration that the child is legally free for adoption under section 38.

(2) The Committee may also pass orders for—

(i) declaration of fit persons for foster care;

(ii) getting after care support under section 46 of the Act; or

(iii) any other order related to any other function as may be prescribed.”

13. On a fair reading of the impugned order dated 27.01.2025, it appears that on the basis of the allegation made, the respondents passed the impugned order by coming to a unilateral conclusions without giving an opportunity to hear the petitioner herein. There is also no provisions of imposing a penalty of Rs.5,00,000/- upon the petitioners. The respondents acted in an arbitrary manner. In the absence of any conferment or delegation of power under the statute, the invocation of such power penalizing the petitioner is ‘*ultra vires*’. The child welfare is important, but at the same time the emotional bondage of the petitioner and his wife who are senior citizens cannot be taken for granted. Even the position of the adoptive parents should be respected. The adoptive parents are not criminals. There could be several factors where the adoptive parents and the child could not get emotionally connected. The child Sohana Khatun coming from State of Assam belongs to a different religions and family back ground now aged 10 years is named as Nandini Jamatia by the adoptive parents who are Tribal of the State of Tripura and senior citizens. The life style, family background food habits, language, weather conditions differ and to get adjusted becomes difficult. This Court is of the opinions that the emotional bondage and relationship between the child and the petitioners no longer exists. The impugned order dated 27.01.2025 cannot sustain, and it is liable to be set aside.

14. The adoptive parents as well as the respondents-authorities are directed to take necessary steps for dissolution of the adoption deed, in accordance with the procedure.

15. In view of the above, the impugned proceeding dated 27.01.2025 stands set aside. The personal appearance of the respective parties is hereby dispensed with.

16. With the above observations and directions, the present writ petition stands allowed. As a sequel, any interim order passed earlier stands vacated, and all pending application(s), if any, stand disposed of.

DR. T. AMARNATH GOUD, J.

Suhanjit

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