

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 865 of 2016**

- Unnayak Seva Samiti S/o - Late Sharad Chandra Mohanti Aged About 39 Years Plot No. 960/22, Kelo Vihar Colony, Raigarh, Through - Its President, Siddhant Shanker Mohanti, R/o - Kelo Vihar Colony, Raigarh, Tah. & District Raigarh Chhattisgarh

---- Applicant**Versus**

1. Shri Rajiv Pandey S/o Ramdeep Pandey Aged About 39 Years Occupation - Software Tester, R/o - 3460 Harrington Drive, Ellicott City Maryland (U.S.A)
2. Pallavi Sinha Rajiv Pandey Aged About 37 Years Occupation - Dentist, R/o 3460 Harrington Drive, Ellicott City Maryland (U.S.A.)
3. Public In General Who May Concern

---- Non-applicants

For Applicant : Mr. Amit Sharma, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****16/09/2016**

1. By way of the present Revision Petition under Section 102 of the Juvenile Justice (Care And Protection of Children) Act, 2015 (herewith 'the Juvenile Justice Act, 2015) the Applicant assailed the order dated 13.06.2016 and 13.04.2016 whereby the District Judge, Raigarh in Miscellaneous Civil Case No. 203300000092016 rejected the application for adoption of the child moved by the Applicant as

per Section 41 of the Juvenile Justice Act, 2015.

2. Learned Counsel for the Applicant makes a submission that the Court below has not appreciated the fact that subsequent to the dismissal of the Application by the Court below in a proceeding under Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2000 where he had moved the Review Petition before the same Court which was registered as Misc. Civil Case No. 38/2016. By way of the Review Petition the Applicant had brought to the notice of the Court below the fact that the lacunae on the basis of which the original claim application of the Applicant was rejected on 13.04.2016 subsequently has been fulfilled by the Applicant and therefore the Court below ought to have allowed the Review Application and should have considered the claim application of the Applicant. Thus the Court below has committed grave error of law in not appreciating the same and rejecting the Review Petition on 13.06.2016.
3. After hearing the case of the Applicant and on perusal of the record what is an admitted position is that the original claim case under Section 41 of Juvenile Justice Act, 2000 was decided by the District Judge, Raigarh in Misc. Civil Case 203300000092016 on 13.04.2016. There was admittedly certain lacunae on part of the claimant to the extent that the requirement as per the guideline dated 17.07.2015 of Government of India for adoption of child i.e. requirement under clause No. 16 of getting a permission from the Country where the persons who were intending to adopt the child are

residing was not obtained. Similarly, the requirement of No Objection Certificate as per the guidelines No. 20 from the concerned police authorities were also not obtained. Considering the admitted factual position as per the Applicant himself, this Court is of the opinion that the Court below has not committed any error of law in rejecting the application under Section 41 of the Juvenile Justice Act, 2000 as those were the mandatory conditions which has to be fulfilled by the concerned persons at the time of claiming adoption of a child.

4. The fact that the Applicant subsequently has obtained all the requisite certificates does mean that the Applicant has got a right for seeking recalling of an earlier order which stood rejected on the basis of factual position as had stood on the date of rejection of the claim application. The fact that the Applicant moved application for recalling and review of the earlier order which stood decided on 13.06.2016 only on the basis of certain documents that he has obtained subsequently also is not sustainable on the ground that it is settled position of law that Review Application on the basis of certain new facts and documents obtained subsequent to the earlier order passed would not be a strong ground for recalling and reviewing of the earlier order.
5. In the instant case the Applicant claims that now he has obtained all the requisite formalities and also obtained all the requisite documents to fulfill the conditions as per the guidelines framed by the Government of India in its guidelines dated 17.07.2015. This

Court finds no reason why the Applicant cannot move fresh application before the competent Court of law seeking the relief of adoption of a child afresh and for which he shall have the liberty for the same.

6. So far as the two impugned orders are concerned this Court does not find any error of law or an error on facts while deciding the same.
7. With the aforesaid observation the present Petition stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE