

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 525 of 2017

Barkha Soni D/o Girdharlal Soni Aged About 32 Years R/o Surya Nager, Near Sonker Badi Durg District Durg (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : Secretary, Womens And Child Development Department, Naya Mantralaya, Mahanadi Bhawan, New Raipur District Raipur (Chhattisgarh)
2. Secretary, Central Adoptive Resource Agency (C A R A), Ministry Of Womens And Child Development, West Block 8, Wing 2, 2nd Floor, R. K. Puram, New Delhi
3. Collector, Durg, District Durg Chhattisgarh.
4. Child Welfare Committee (C W C), Through Secretary, Womens And Child Development Department Durg
5. Sewa Bharti Matruchaya, Through President, Matruchaya Borsi Road Durg, District Durg (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Anurag Jha, Advocate
For Respondent/State	:	Shri Ramakant Mishra, Dy. A.G.
For Respondent/Union of India	:	Shri Shiv Sahu, Advocate under instructions
For Respondent No.5	:	Shri Ankul Biswas, Advocate
Amicus Curiae	:	Ms. Aditi Singh, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

C A V Order

21/08/2017

1. The petitioner has filed this petition seeking a direction to respondents to refer a girl child Tuktuk in a need of care and protection as per petitioner's

choice for adoption, to the Adoption Court/Family Court, on the pleadings inter alia that the said girl child Tuktuk, aged 3, years was rescued from the clutches of one Khushbu Khan and looked after affectionately and passionately by the petitioner. The girl child developed an affection and started calling the petitioner as her mother. Later on, the said Khushbu Khan submitted a complaint before the Sub Divisional Magistrate to invoke power under Section 97 Cr.P.C. and SDM passed an order on 17.12.2014 for sending the girl child to Child Care Home pursuant to which the child was produced before the Child Welfare Committee which passed an order sending the child to a Child Care Institution i.e. Seva Bharti Matruchaya, Durg, duly recognized as Specialised Adoption Agency (SAA). As the petitioner was desirous of taking the said girl child Tuktuk in adoption, she got herself registered as Prospective Adoptive Parents (PAP) in Child Adoption Resource Information and Guidance System (hereinafter referred to as "CARINGS") and also got registered with the said SAA/respondent No.5 by payment of requisite fee. It is the case of the petitioner that after she was duly registered on CARINGS on 8.2.2015 and when the child was not referred to the petitioner for being taken in adoption and proceedings towards adoption as provided under the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as "**the J J Act 2000**") read with Juvenile Justice (Care and Protection of Children) Rules 2007 (hereinafter referred to as "**the Rules of 2007**") and Adoption Guidelines of 2011, an application under Section 9 of the Guardian and Wards Act, 1890 read with sub-Section (3) and (6) of Section 41 of the J J Act 2000, as amended in 2006, was filed before the Family Court for adoption order. Initially, when the petitioner moved an application for taking the child in foster care, the application was rejected on the ground that the child was not declared legally free for adoption. Later on, when the girl child was declared legally free for adoption on 22.5.2015, the petitioner again applied for an order under Section 42 (2) of the J J Act 2000 for foster care which was allowed on 10.7.2015. This order was however challenged by the Child Welfare Committee and SAA (Seva Bharti Matruchaya, Durg) by filing an

appeal before the High Court in which initially interim order was passed and later on the appeal was finally disposed off vide order dated 17.3.2016 with direction to the Family Court to decide the main case. Considering the fact that the stay was granted in favour of the appellants and custody of the minor child remained with the appellants therein, it was directed that till the decision of the main case, custody of minor child Tuktuk shall remain with the appellant -SAA/respondent No.5. It is submitted that the case is still pending before the said Family Court and as the said girl child was not referred to the petitioner, to which the petitioner was entitled under the Law, the petitioner may not get an order of adoption of the said girl child in her favour and aggrieved by the said action of respondent-authority, the petitioner has approached this Court for direction to respondents No. 2 to 5 to take necessary steps for referring the said girl child Tuktuk to the petitioner. The petitioner has also raised grievance that even though under the then existing Adoption Guidelines, the petitioner was entitled to a choice amongst the available girl child in the SAA/respondent No.5 which included the girl child Tuktuk also, the respondents illegally withheld the name of said child from the petitioner and wrongly downgraded her on the ground that the petitioner did not give her acceptance for adoption of two girl children referred to the petitioner. Though the proceedings initiated on petitioner's application are still pending before the Family Court, instant petition has been filed by the petitioner seeking a direction to respondent authority, to refer the said girl child Tuktuk to the petitioner so that an appropriate application may be directed to be filed by the SAA/respondent No.5 in prescribed format before the Family Court for issuing necessary adoption order under the scheme of J J Act and the Rules and Guidelines framed thereunder.

2. Learned counsel for the petitioner submits that the petitioner was duly registered with the SAA/respondent No.5 and was also provided online registration on 8.2.2015 on CARINGS. The relevant applicable rules oblige the respondents to refer girl child Tuktuk as per petitioner's choice for adoption. According to learned counsel for the petitioner, at the time of

registration on CARINGS and in the SAA/respondent No.5, the provisions of the J J Act, 2000 (as amended in 2006), J J Rules 2007 and Adoption Guidelines 2011 were applicable, therefore, the petitioner was entitled to due precedence as per her choice and in accordance with her seniority in the CARINGS list of Prospective Adoptive Parents (PAP). It is further submitted that the applicable Adoption Guidelines on the date of first referral i.e. 30.5.2016 were those which were framed in the year 2015 and even according to these Adoption Guidelines of 2015 and as per the new statutory scheme of J J Act 2015, each respondents were obliged under the Law to refer girl child Tuktuk to the petitioner as per her choice because that girl child was under the care of SAA/respondent No.5 with which the petitioner was duly registered and it is not a case where any other Prospective Adoptive Parents (PAP) higher in seniority than the petitioner had opted for girl child Tuktuk. Therefore, the petitioner ought to be referred girl child Tuktuk for being taken in adoption followed by appropriate application for adoption to be submitted before the appropriate Adoption Court/Family Court Durg by SAA/respondent No.5. In support of his submission, learned counsel for the petitioner relied upon the judgment passed in the case of **Shabnam Hashmi Vs. Union of India & Ors.** (2014) 4 SCC 1 and order dated 17th September 2014 passed by Division Bench of High Court of Madhya Pradesh in First Appeal 55/2013 in the matter of **Tarun Kadam & Anr. Vs. Sate of Madhya Pradesh & Anr** and the judgment passed in the case of **Secretary, Subhadra Mahatab Seva Sadan of Kolathia and another Vs. State of Odisha** (AIR 2013 Odisha 110).

3. On the other hand, learned counsel for the respondents submit that the petitioner is not entitled for the stated relief because as per the petitioner's seniority on the basis of her registration on CARINGS on 8.2.2015, she was duly offered a child called Buchi on 30.5.2016 which offer the petitioner did not accept. Thereafter, she was again referred another child called Yogita on 18.1.2017 which the petitioner also did not accept. It is submitted that the petitioner cannot claim that a girl child, only of her choice alone, should be referred to her as the relevant and applicable Adoption Guidelines relating

to adoption do not admit of any such procedure. According to learned counsel for the respondents under the provision of the J J Act, J J Rules, Adoption Guidelines applicable in the case, once a Prospective Adoptive Parents (PAP) is registered with the SAA and registered online on CARINGS, referral of child has to take place according to seniority and the procedure prescribed under the Guidelines which was duly done by the respondents. As the petitioner did not reserve children referred to her on more than two occasions, the petitioner was downgraded in seniority list as per provision of Adoption Regulations 2017 and in future she would be given an offer again on the basis of new downgraded seniority. It has also been stated on affidavit by respondent No.2 that as the petitioner has approached Central Adoption Resource Authority (CARA) with a request to consider matching of particular child Tuktuk @ Hina, it has forwarded the case to the Relaxation Committee headed by the Secretary, Ministry of Women and Child Development to ascertain the facts pertaining to sourcing of child, aim of the petitioner while taking its custody, legal aspects followed by declaring the child legally free for adoption by the Child Welfare Committee and best interest of child before a decision on the request of the petitioner can be taken.

4. This Court considered the rival submissions made by learned counsel for the parties and perused the records of the case. This Court also requested Ms. Aditi Singh, Advocate to assist the Court as Amicus Curiae, who has proficiently brought to the notice of this Court, relevant statutory provisions contained in J J Act 2000, J J Act 2015 and various Adoption Guidelines issued from time to time in the year 2011, 2015 and 2017 with particular reference to the guidelines delineating procedure and mechanism to be followed in the matter of adoption of an orphaned or abandoned child, treating a child in a need of care and protection under the Scheme of J J Act.
5. This Court considered it necessary to look into the records of the Adoption application filed and pending before the Family Court, Durg and the records of the said case, registered as Civil MJC No.18/2015 were also summoned.

6. The records of the petition and the records of the said adoption case pending before the Family Court, Durg revealed that girl child Tuktuk aged about 3 years used to be brought by one Khushbu Khan, a third gender, in the mobile shop of one Manish Soni, the brother of the petitioner Barkha Soni. According to the petitioner, the said child was left with the petitioner's brother Manish Soni by said Khushbu Khan and as the child was an abandoned one and there was no one to look after her, the petitioner had been taking care of the said child and developed an affinity with the child. However, after about 5 months, the said Khushbu Khan moved to SDM who invoked his power under Section 97 Cr.P.C and passed an order on 17.12.2014 for sending the girl child in the custody of Child Welfare Institution. The child thereafter was produced before the Child Welfare Committee, Durg, which in turn, passed order for sending the child to Specialized Adoption Agency, Durg, it being a branch of Seva Bharti Matruchaya, Bilaspur. Records further speak that the petitioner being desirous of adopting the girl child Tuktuk, having come to know about the legal requirement, submitted application being registered with Seva Bharti Matruchaya, Durg on 10.2.2015 by submitted registration fee of Rs.1000/-. Before that the petitioner got registered on CARINGS on 8.2.2015 and was provided Prospective Adoptive Parent (PAP) Registration No.PrCh 27585437. A copy of the said registration acknowledgement is also reflected from the personal information filed as Annexure R-2/2. Thereafter, the petitioner moved an application under Section 9 of the Guardian and Wards Act, 1890 read with sub-Section (3) and (6) of Section 41 of the J J Act 2000, as amended in 2006, for grant of adoption order before the Family Court on 13.4.2015. Initially when the application was moved for giving the child for foster care, the application was rejected by the Family Court on 14.5.2015 as the child was not declared legally free for adoption by the CWC. It is not in dispute that the girl child was declared legally free from adoption on 22.5.2015, whereafter the petitioner repeated application for grant of custody of the girl child for foster care which was eventually allowed by the Family Court on 10.7.2015. However, this order was challenged by the CWC

and Seva Bharti Matruchaya/Specialized Adoption Agency by filing appeal before this Court. In that case, as the records of the Civil M.J.C. No.18 /2015 show, interim order was passed by the High Court against the order dated 10.7.2015 and the girl child continued in the Seva Bharti Matruchaya. The appeal was, later on, finally disposed off on 17.3.2016 and taking into consideration that because of interim order, the custody of minor child continued with the Specialised Adoption Agency, it was directed that till the decision of the main case, custody of minor child Tuktuk shall remain with the appellant i.e. Seva Bharti Matruchaya/respondent No.5.

7. The writ petition by the petitioner, seeks to challenge legality and validity of the action of the respondents whereby the respondents did not refer for adoption girl child Tuktuk to the petitioner, a PAP, and thereafter downgraded the petitioner's seniority in PAP seniority list maintained on CARINGS.
8. In order to decide the issue raised before this Court, it would be appropriate and apposite to examine the statutory scheme of the J J Act 2000, J J Act 2015, Rules made thereunder as also the Adoption Guidelines issued by CARA framed to regulate procedure and mechanism in the matter of adoption of a child in need of care and protection and eligible for being given adoption under the legal framework of the J J Act.
9. Constitutional mandate under Clause (3) of Article 15, clauses (e) and (f) of Article 39, Article 45 and Article 47 of the Constitution of India require the State to ensure that all the needs of children are met and that their basic human rights are fully protected. In order to fulfill this constitutional mandate and towards implementation of international conventions of rights of the child, a comprehensive legislative framework was brought into existence by enacting Juvenile Justice (Care and Protection of Children) Act, 2000 which repealed the then existing Juvenile Justice Act, 1986 . Elaborate and exhaustive provision were made for the purposes of proper rehabilitation and social reintegration of a child. Section 40 of the J J Act

2000 provided that the rehabilitation and social reintegration of a child shall begin during the stay of the child in a children's home or special home and the rehabilitation and social reintegration of children shall be carried out alternatively by (i) adoption, (ii) foster care, (iii) sponsorship, and (iv) sending the child to an after-care organization. Section 41 specifically declared that the primary responsibility for providing care and protection to children shall be that of his family. A further declaration was made that adoption shall be resorted to for the rehabilitation of the children who are orphaned, abandoned or surrendered through such mechanism as may be prescribed. Sub-section (3) of Section 41 of the J J Act 2000 further provided that child may be given in adoption by a Court in accordance with the provisions of various guidelines for adoption issued from time to time by the State Govt. or the Central Adoption Resource Agency and notified by the Central Govt., after satisfying itself regarding the investigation having been carried out, as are required for giving such child in adoption. Sub-Section (4) of Section 41 further confirm power of the State Govt. to recognize one or more institutions or voluntary organizations in each district as specialised adoption agencies in such manner as may be prescribed for the placement of orphaned, abandoned or surrendered children for adoption in accordance with the guidelines notified. It was also clarified that these children shall be declared free for adoption by the Committee. While sub-section (5) lays down the eligibility of the child who could be offered for adoption, sub-section (6) of Section 41 provided for the eligibility of those who could be given a child in adoption.

For the purpose of carrying out the provision of the J J Act, 2000, Rules were also framed by the Central Government known as Juvenile Justice (Care and Protection of Children) Rules, 2007, which amongst other things, provided for the adoption mechanism in Rule 33 thereof.

In exercise of power conferred under Section 41 (3) of the J J Act 2000, CARA framed Adoption Guidelines of 2011. These guidelines were replaced by the Guidelines framed under Notification dated 17th July 2015 which came

into force w.e.f. 1.8.2015.

10. In order to make the legislative framework and the juvenile justice delivery system more broad based and comprehensive, the Parliament enacted Juvenile Justice (Care and Protection of Children) Act, 2015 which came into force by way of publication of notification dated 31.12.2016 published in gazette of India on 1.1.2017. The Central Govt. also framed Juvenile Justice (Care & Protection of Children) Model Rules, 2016. It is not in dispute before this Court that the earlier Rules of 2007 and thereafter, present Rules of 2016 both were adopted by the State of Chhattisgarh and made applicable. A more comprehensive adoption guidelines has now been made by the Central Govt. in exercise of statutory powers under the J J Act, 2015, known as Adoption Regulations 2017 vide notification dated 4.1.2017 which have come into force upon publication in the gazette of Govt. of India on 16.1.2017. On facts of the present case, the petitioner was registered on CARINGS on 8.2.2015 and the first referral, according to return of the respondent, was made on 30.5.2016. As the petitioner was desirous of taking care of girl child Tuktuk, the petitioner did not accept the offered child. At this juncture, the legislative framework, in force, was as contained in J J Act 2015, Adoption Guidelines of 2015 and J J Rules of 2007. Therefore, the legality and validity of the action of respondents will have to be judged by applying the aforesaid provisions which were in force at the time when first referral was made on 30.5.2016.

11. The legal framework of the J J Act 2000 which was in force at the relevant time, as contained in Section 41 of the J J Act 2000 has already been referred to herein-above. The Act, by itself, did not lay down any detailed mechanism except laying down broad legislative policy. Rule 33 (1) of the Rules of 2007 declared that primary aim of adoption is to provide a child who cannot be cared for by his biological parents with a permanent substitute family. Sub-Rule (3) of Rule 33 of the Rules of 2007 provided that Specialised Adoption Agencies shall produce all orphaned and abandoned children who are to be declared legally free for adoption before the

Committee and procedure to be followed for declaring a child abandoned and certifying him legally free for adoption.

However, neither the Act nor the Rules provided for any detailed mechanism as to how a child placed in a SAA and declared legally free for adoption shall be referred to Prospective Adoptive Parent (PAP), acceptance and then forwarding of the case of adoption to the competent Court for passing appropriate adoption order. All these aspects were elaborately dealt with and mechanism provided in the Adoption Regulations 2015.

12.Clause 3 of the said Guidelines of 2015 lays down certain principles governing adoption and being relevant is extracted herein-below”

“3. Fundamental principles governing adoption. - The following fundamental principles shall govern adoptions of children from India, namely, -

(a) the child's best interests shall be of paramount consideration, while processing any adoption placement;(b) preference shall be given to place the child in adoption with Indian citizens, with due regard to the principle of placement of the child in his own socio-cultural environment, as far as possible.

Sub clause (a) of Clause 3 clearly lays down that in the matter of the adoption, best interests of the child shall be the paramount consideration.

13.As per Clause 4 of the Regulates of 2015, any orphaned, abandoned or surrendered child who has been declared legally free for adoption by the Child Welfare Committee would be eligible for adoption. In the present case , there is no dispute that girl child Tuktuk was declared legally free for adoption at the time when the occasion arose for referring child to the petitioner as per his seniority on 30.5.20.16. There is no dispute with regard to the eligibility criteria as provided under Section 41 of the JJ Act, 2000 read

with Clause 5 of the Adoption Guidelines, 2015. The procedure for adoption of a child declared legally free has been elaborately prescribed in clauses 6, 7 & 8 of Chapter -II of the Guidelines of 2015. Clause 9 of the Guidelines of 2015 provides for registration of prospective adoptive parents and preparation of house study report. The petitioner, undisputedly, was registered as per the provisions contained in Clause -9. Clause 10 importantly provides for the procedure to be followed in the matter of selection of child by PAP. The same being relevant for present case is reproduced herein-below:

“ 10. Selection of a child by the prospective adoptive parents. -

- (1) The seniority of the prospective adoptive parents shall be from the date of registration in the Child Adoption Resource Information and Guidance System.
- (2) On the basis of seniority, the prospective adoptive parents shall be given an opportunity to view the photographs, child study report and medical examination report upto six children, in their preference category if any, in one or more specialised adoption agencies through the Child Adoption Resource Information and Guidance System.
- (3) After viewing the photographs, child study report and medical examination report of the child or children, the prospective adoptive parents may reserve one child within a period of forty eight hours for possible adoption and the rest of the children would be released through Child Adoption Resource Information and Guidance System for other prospective adoptive parents in the waiting list.
- (4) The specialised adoption agency will get the

details of the prospective adoptive parents referred from the Child Adoption Resource Information and Guidance System site and fix appointment with the prospective adoptive parents to assess the suitability of the prospective adoptive parents by an Adoption Committee, consisting of its adoption incharge or social worker, pediatrician or visiting doctor and one official from the District Child Protection Unit.

(5) The specialised adoption agency shall also organise a meeting of the prospective adoptive parents with the child.

(6) The entire process of matching shall be completed within a maximum period of fifteen days from the date of reserving the child.

(7) While accepting the child, the prospective adoptive parents shall sign the child study report and medical examination report in the presence of the social worker or chief functionary of the specialized adoption agency.

(8) In case, the prospective adoptive parents are not selected for the child by the specialised adoption agency, the reason for non-selection of the prospective adoptive parents shall be recorded in the Child Adoption Resource Information and Guidance System.

(9) In case, the prospective adoptive parents do not accept the reserved child or the specialised adoption agency does not find the prospective adoptive parents suitable, then, the prospective adoptive parents will be shifted to the bottom of the seniority list, as on that date, who can avail a

fresh chance when the seniority becomes due and the same procedure shall be followed in the subsequent chances.

(10) The registration of prospective adoptive parents shall be valid for two years.

(11) The prospective adoptive parents can also get the medical examination report of the child reviewed by a medical practitioner of their choice.

(12) If the prospective adoptive parents opt for one of the children shown, they shall accept the child by signing the child study report and medical examination report of the child, which may be downloaded from the Child Adoption Resource Information and Guidance System and the specialised adoption agency shall record the acceptance by the prospective adoptive parents in the Child Adoption Resource Information and Guidance System."

14. Sub-clause (2) of Clause 10 clearly provides that on the basis of seniority, prospective adoptive parents will be referred six children of one or more specialised adoption agencies, in the order of preference, if any, along with photograph, child study report and medical examination report. Sub-clause (3) further provides that upon such referral made , prospective adoptive parents within forty-eight hours may accept one of such children and on such acceptance, all other referred children shall be released for other prospective adoptive parents.

15. In the present case, it is not in dispute that the petitioner got herself registered with respondent- Sewa Bharti Matruchaya/respondent No.5. Therefore, the petitioner ought to be referred at least six girl children because the petitioner had opted for a girl child for adoption. It is not the case of the respondent that in the SAA/respondent No.5 institution, there

were not even five girl children available for adoption or that in the order of seniority, there were other prospective adoptive parents having given their preference of adoption from SAA/respondent No.5 and were already referred girl child Tuktuk so as to say that girl child Tuktuk was not available for being referred to the petitioner as one of the six children in the SAA/respondent No.5. According to respondent's reply on 30.5.2016, one girl child namely 'Buchi' was referred to the petitioner. Respondent have failed to justify why the petitioner was not offered six girl children available for adoption in SAA/respondent No.5. It could not be disputed that girl child Tuktuk was declared legally free for adoption on 22.5.2015. There is nothing on record to show that she was already reserved for adoption by any other prospective adoptive parents, higher in seniority than the petitioner. It is not known as to on what basis the respondent selected girl child 'Buchi' for being offered to the petitioner. The Guidelines of 2015 are silent as to what criteria is to be applied while referring a child to a Prospective Adoptive Parents much less the basis on which girl child 'Buchi' was offered to the petitioner. Had the mandatory provisions of the Adoption Guidelines of 2015 been followed and the petitioner would have been referred list of six girl children including girl child placed in the custody of SAA/respondent No.5, girl child Tuktuk would have been in the list as she was not reserved by any other PAP higher in seniority than the petitioner. On the basis of this illegal reference made in violation of Adoption Guidelines of 2015, if the petitioner expressed his inability to accept offered child, she cannot be relegated/downgraded in the seniority of PAP as the referral of the child itself was not in accordance with the provision of the Guidelines. Merely because the petitioner, in a peculiar and fortuitous circumstances, had taken the care of child Tuktuk for about five months, developed affinity and expressed her desire while submitting application to adopt that girl child Tuktuk, it could not be treated as a disqualification by itself, if otherwise, on the basis of the provision contained in Clause 10 of the Regulations of 2015, the petitioner was entitled to an opportunity to select one of six referred girl children, one of which could be girl child Tuktuk.

16. In view of the above consideration, this Court is of the view that non-referral of girl child Tuktuk for adoption to petitioner as Prospective Adoptive Parents (PAP) despite availability of girl children in the Institution of respondent No.5, which was the preferred institution of the petitioner, not only the provisions contained in Clause 10 of the Adoption Guidelines 2015 were violated but was also against the best interests of the child.
17. Later on, the petitioner was again offered another girl child on 18.1.2017. But this Court is not inclined to go into that aspect because it has been found that at the time of making referral on the first occasion on 30.5.2016, illegality was committed.
18. Under the scheme of J J Act, 2000, J J Rules 2007, Adoption Guidelines 2015 which were applicable on the relevant date when referral was made on 30.5.2016, once a referred child is reserved by the Prospective Adoptive Parent, after counselling of the child with the PAP, matching of the child and after complying with the other requirements of provision contained in sub-clause (7) to (12) of Clause 10 of the Regulations 2015, the procedure prescribed in clause 12 of the Guidelines were to be followed which required Specialised Adoption Agency (SAA) to submit application before the Court and obtain the adoption order so as to complete the process of adoption and give the child in adoption to the PAP who had reserved the child.
19. In the present case, the petitioner herself has moved the Court by submitting an application on 13.4.2015 without there being any application by the SAA as required under Clause 12 (1) of the Guidelines of 2015. An appropriate direction therefore is necessary towards granting relief to the petitioner in the manner that the Specialised Adoption Agency/respondent No.5 shall treat girl child Tuktuk as having reserved for adoption by the petitioner as Prospective Adoptive Parents (PAP) and necessary information shall be entered in its own records and further appropriate information of girl child Tuktuk having been reserved for the petitioner as PAP will have to be uploaded on CARINGS.

As by now, the new Guidelines known as Adoption Regulations, 2017 have come into force repealing earlier Adoption Guidelines of 2015, the girl child Tuktuk shall be treated as having been reserved for adoption by the petitioner as PAP and the SAA/respondent No.5 shall take further steps from the stage provided in Clause 10 (4) of the Regulations 2017 onwards up to the stage contemplated in sub clause (9) thereof within 30 days. Thereafter, respondent No.5 shall proceed to take necessary steps as provided under Clause 12 of the Adoption Regulations 2017 in the Court concerned with the relevant documents in original as specified in Schedule -IX within 10 days from the date of matching of the child with Prospective Adoptive Parents. SAA/respondent No.5 shall file an application in prescribed format as provided in Schedule- XXVIII or Schedule- XXIX as applicable. As required under Clause 12 (6) of the Adoption Regulations 2017, the Court shall hold the adoption proceeding in-camera and dispose off the case within a period of two months from the date of filing of the adoption application by the Specialised Adoption Agency, as provided under sub-section (2) of section 61 of the JJ Act 2015.

20. The records of the Civil M.J.C. No.18/2015 received from the Family Court, Durg shall be remitted forthwith for being disposed off along with an application to be filed by the SAA/respondent No.5, as directed above.
21. The petition is accordingly allowed in the manner and to the extent stated above.
22. Before parting with the case, this Court would like to place on record its appreciation that the present case was argued by the counsel for the parties including learned Amicus Curiae Ms. Aditi Singh not as adversarial litigation but in the spirit of the best assistance that could be provided to the Court to ensure that the abandoned child gets a parent as early as possible through the legal procedure of adoption which alone would serve the best interests of the girl child Tuktuk. This Court recommends for payment of counsel fee of Rs.10,000/- to Ms. Aditi Singh, Amicus Curiae, from the Legal Aid on such

-17-

application being submitted by her before the Chhattisgarh High Court Legal Aid Committee.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen