

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No.12196 of 2019
Date of decision:-09.05.2019

Balwant Singh and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. K.S. Hissowal, Advocate for the petitioners.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioners have filed the instant petition raising an innocuous prayer for directing the official respondents under the State of Punjab to consider and to take a final decision on a representation dated 19.03.2019 at Annexure P-1.

Perusal of the representation dated 19.03.2019 at Annexure P-1 would reveal that the same has been addressed to the Deputy Commissioner, District Ferozepur for allowing the applicants therein i.e.the petitioners to adopt Master Jobanpreet Singh as their son with the consent of the natural parents i.e.Harbhajan Singh and Rajwinder Kaur.

Section 10 of the Hindu Adoption and Maintenance Act 1956 reads as follows:-

“Persons who may be adopted:- No person shall be capable of being taken in adoption unless the following conditions are fulfilled, namely:-

(i) he or she is a Hindu;

(ii) he or she has not already been adopted;

(iii) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption;

(iv) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption”.

As per mandate of Section 10 no person is capable of being taken in adoption unless certain conditions are fulfilled and one of them being that he or she has not completed the age of 15 years.

It is the pleaded case of the petitioners themselves in the instant writ petition as also in the representation dated 19.03.2019 that Jobanpreet Singh is 16 ½ years of age.

As per Section 10 (iv) the embargo as regards age of 15 years can only be overcome if there is a custom or usage applicable to the party concerned permitting adoption even after completion of the age of 15 years.

In the instant petition no such custom or usage has been pleaded and neither have any submission in this regard been raised by counsel.

In view of the above, prayer in the instant petition cannot be entertained.

No merit.

dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

09.05.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No