

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6314 OF 2020

1. Sachin s/o Anantrao Thakre,
Age : 34 years, Occu.: Government service,
2. Manisha w/o Sachin Thakre,
Age : 34 years, Occu.; Housewife
R/o.: At post : Shirajgaon Deshmukh,
Tal.: Khamgaon, District : Buldhana,
Presently R/o.: Tahsil Quarter No.1,
Tahsil Hniwas, Khamgaon,
Tq. Khamgaon, District: Buldhana ... **PETITIONERS**

VERSUS

1. The Union of India,
Through the Secretary,
Department of Women and Child Development,
1, Canning Lane (Pandit Ravi Shankar Shukla Lane),
Near Bhatiya Vidya Bhavan Bus Stop,
Kasturba Gandhi Marg,
New Delhi – 110 001-wcd@nic.in
2. Central Adoption Resource Authority,
Through the Member Secretary and CEO,
Or through the Director,
Ministry of Women and Child Development,
West Block 8, Wing 2, 1st Floor, R. K. Puram,
New Delhi – 110 006 (India)
Email-carahdesk.wcd@nic.in
3. The State of Maharashtra,
Through the Secretary,
Women and Child Development Department,
3rd Floor, New Administrative Building,
Madam Cama Road, Hutatma Raiguru Chowk,
Mumbai – 400 032. Maharashtra, India.
4. The State Adoption Resource Agency,
Through The Commissioner,
2nd Floor, Women and Child Development
Commissionerate, 28, Queens Garden,
Near Old Circuit House, Pune-411 001.
sara.mspps@gmail.com

5. District Women and Child Development Officer,
Age : Office of the District Woman and Child
Development, Administrative Building,
Office of the District Collector,
Ground Floor, Jalna- 431203
 6. District Women and Child Development Officer,
Office at Plot No.9, Jadhav Building,
Khokadpura, Aurangabad.
 7. The Chairman,
Child Welfare Committee,
c/o.: Observation Home, Sant Gadge Nagar,
Ambad Road, Jalna, Tal. & Dist. : Jalna.
 8. The Chairman,
Child Welfare Committee,
C/o.: Observation Home, N-12, HUDCO,
Near HUDCO Corner, Aurangabad
 9. SAKAR,
(Society for Adoption, Knowledge,
Awareness and Research)
Through the Superintendent / Manager,
“Ajmera Complex”, Plot No. 177, Jyoti Nagar,
Maini Road, Jyoti Nagar, Aurangabad-431005
(M.S.) India
Email ID-sakaradoption@gmail.com
Website-www.sakar.org.in
- ... **RESPONDENTS**

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Mr. Bipinchandra K. Patil, Advocate for petitioners.
Mr. A.G. Talhar, Assistant Solicitor General for respondent nos.1 & 2.
Mr. K.N. Lokhande, AGP for respondent nos. 3 to 6.
Mrs. K.N. Gondhalekar & Ms. Priya Gondhalekar, Advocates for
respondent no.9.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

JUDGMENT RESERVED ON : 9th APRIL, 2021

JUDGMENT PRONOUNCED ON: 7th MAY, 2021

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***JUDGMENT* : (PER SHRIKANT D. KULKARNI) :**

1. Rule. Rule made returnable forthwith. Heard finally with consent of all the parties at admission stage.

2. Factual Matrix :-

i) The petitioners are husband and wife. They blessed with one son namely Dewanshu. In an unfortunate accident, they lost their son, who was 4 & 1/2 years of age. The destiny did not stop there. The petitioners approached to the doctors to take a chance of pregnancy. The doctors after examining petitioner no.2 informed that she has lost her capacity to have biological child.

ii) On 22.11.2019, Samaj Bhan Teem Social Group, a local NGO received information about abandonment of a child on road at Ghansawani. It is informed that the child was with a woman, who has no source of income. She is residing alongside of road and unable to nurture her son. The child is in bad health. The child was malnourished. On receiving such information from the villagers that the woman never takes care of her child. That the mother has practically abandoned the child and sometimes never returned back. Informed to the petitioners about the same. In good faith, the child was given into the custody of the petitioners on 23rd November, 2019 by Samaj Bhan Teem, a NGO.

iii) On 13/01/2020, the mother of the child was searched and produced before the Child Welfare Committee at Jalna. On the said date, the mother of the child shown her inability to look after her son and executed surrender deed. By taking into consideration welfare of the child on 13/01/2020 after completing necessary legal formalities the child was admitted in the institution at Jalna and on the same day custody of the child was given to the petitioners on Foster Care Order. Thereafter, the petitioners have taken utmost care of the child including medical treatment and now he is healthy.

iv) The petitioners were not aware about the legal procedure of adoption. After getting the knowledge of adoption, the petitioners have decided to file petition before the District Court at Jalna. Unfortunately, the petitioners could not file the same due to COVID-19 pandemic.

v) On 28/08/2020 the petitioners received a phone call from Member of the Child Welfare Committee, Jalna. The petitioners were instructed to remain present in the office of CWC at Jalna along with the child on 31/08/2020.

vi) Accordingly, the petitioners remained present along with the child on 31/08/2020 before the Child Welfare Committee at Jalna. The child Dewanshu, who was approximately 17 months was taken back from

the custody of the petitioners and admitted in the society for Adoption, Knowledge, Awareness and Research Institute at Aurangabad, known as SAKAR, Aurangabad.

vii) Feeling aggrieved by the impugned decision by the CWC at Jalna, the petitioners have approached this court by invoking writ jurisdiction under Article 226 of the Constitution and sought custody of the child again coupled with prayer to adopt the child as per the provisions of law.

3. Heard Mr. Bipinchandra Patil, learned advocate for the petitioners, Mr. Talhar, learned Assistant Solicitor General for respondent nos. 1 & 2, Mr. K. N. Lokhande, learned AGP for respondent nos.3 to 6, Mrs. A.V. Gondhalekar and Ms. Priya Gondhalekar, learned advocates for respondent no.9.

4. Respondent nos. 7 and 8 though served, did not respond and marked absent.

5. Perused the Foster Care order dated 13/01/2020 passed by the Child Welfare Committee, Jalna and documents produced along with list at page no.22. We have also perused copy of affidavit in reply filed on behalf of respondent nos. 3 and 6, copy of release deed dated 13/01/2020, copy of institutionalization order dated 13/01/2020, copy of

the Foster Care order dated 13/01/2020 passed by CWC, Jalna and affidavit in reply filed on behalf of respondent no.9 with list of documents at page no.75.

6. Mr. Patil, learned advocate for the petitioners vehemently submitted that impugned action of the CWC, Jalna of removal of the child Devanshu 17 months old, from the custody of the petitioners after a long period, is erroneous and against the principles of justice, equity and good conscious. The CWC has passed order without giving notice, intimation and without following due procedure of law. The impugned action is bad in law. Mr. Patil submitted that welfare of the child should be paramount consideration. For 10 months the child was with petitioners. They are attached with the child. The child has been taken away, which has caused mental trauma to the petitioners. The CWC has not considered the object of Juvenile Justice (Care and Protection of Children) Act, 2015, National Charter for Children 2003 and National Policy for adoption. Mr. Patil submitted that the CWC has not considered the Chapter 7 of the Juvenile Justice Act, 2015. He submitted that the petitioners are ready to complete all the legal formalities for adoption of a child as per CARA guidelines and as per the provisions of Juvenile Justice Act 2015. He submitted that the CARA has powers to relax certain conditions for adoption procedure. The child, Devanshu may be given into the custody of the petitioners, which is in the best interest of the child.

7. Mr. A.G. Talhar, learned Assistant Solicitor General of India appearing for respondent nos.1 and 2 submitted that the procedure laid down under the Juvenile Justice Act, 2015 and Rules thereunder need to be strictly followed. He submitted that Section 35 provides surrender of a child. In the case at hand said mandatory provision is not followed. Sections 31 and 32 provide how child is to be produced before CWC. He submitted that Section 44 of the JJ Act also provides provision of foster care before a child is given in adoption, child should be free as contemplated under Section 38 of the JJ Act. He submitted that in the present case provisions of the JJ Act and Rules made thereunder are not followed while giving custody of a child to the petitioners. He submitted that it is a clear case of breach of mandatory provisions of JJ Act and Rules made thereunder by the petitioners and Specialized Adoption Agency. In that background the petitioners are not entitled to get back custody of the child.

8. Mr. K. N. Lokhande, learned AGP for the State / respondent nos. 3 to 6 submitted that the petitioners have obtained the custody of the child directly from local NGO namely Samaj Bhan Organization. Said act is in violation of Section 31 of the Juvenile Justice Act. The child ought to have produced before the CWC. The proper procedure is not followed. The petitioners have not followed the CARA guidelines, which are mandatory

for adoption of a child. Mr. Lokhande invited that in Suo Motu Public Interest Litigation No. 2 of 2020, as per the directions of this court, the inmates admitted in Marwadi Charitable Trust, Jalna, Child Care Institution, (CCI) and Specialized Adoption Agency (SAA) three inmates, who were given in Foster Care including Devanshu, now they are in the custody of respondent no.9 SAKAR. He submitted that CWC, Jalna has given the child in Foster Care on the basis of release deed in gross violation of Juvenile Justice Act, 2015. The CWC has not followed the Juvenile Justice Act. The CWC, Jalna has also not followed the rules of Maharashtra Juvenile Justice (Care and Protection of Children) Rules, 2018 for adoption of a child by the foster family.

9. The CWC has passed the order of Foster Care simply on the basis of social investigation report, which is also incomplete. There is no home study report to assess the suitability of the petitioners of foster parent. Mr. Lokhande submitted that local NGO namely Samaj Bhan Organization and the present petitioners are involved in illegal adoption process for personal gain without protecting best interest of the child. He submitted that at present the child Devanshu is admitted in SAKAR (Specialized Adoption Agency), Aurangabad by the order of CWC, Aurangabad and said institution is taking good care of the child. He submitted that the petitioners have no right to select or to take custody of the child before

registration of a child on the portal. In conclusion, Mr. Lokhande, learned AGP submitted that the petitioners are not entitled to get back custody of the child. The petition devoid any merit and liable to be dismissed.

10. Mrs. Gondhalekar, learned advocate for respondent no.9 invited our attention to the provisions of the Juvenile Justice Act and Rules. She submitted that procedure of handing over of a child is prescribed in Juvenile Justice Act, 2015 and Rules made thereunder. It is mandatory that any child in need of care and protection must be produced before the CWC without delay. The child Devanshu was falling in the definition of child in need of care and protection. Even then, the child was not produced before CWC but custody of the child was handed over to the petitioners in gross violation of provisions of Juvenile Justice Act and Rules. Local NGO- Samaj Bhan Organization has no legal right to hand over the custody of the child to the petitioners. Neither the police station nor CWC, Jalna was informed about the child in need of care and protection by Samaj Bhan Organization or the petitioners and thereby given total goodbye to the provisions of Juvenile Justice Act and Rules made thereunder. The mandatory rules are not followed while giving custody of a child under Foster Care Agreement. The CARA guidelines are not followed. She submitted that the child is now in safe hands of Specialized Adoption Agency - SAKAR. The procedure for adoption and

CARA guidelines are mandatory. The child Devanshu cannot be given back into the custody of the petitioners.

11. The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'JJ Act' for brevity) came into force with effect from 31/12/2015. The Government of India has also framed JJ Act, 2015 Models Rules 2016 and the Adoption Regulations, 2017. The State is empowered to frame its own rules by invoking Section 110 of the JJ Act. In exercise of the powers conferred by Sub-Section (1)(2) of Section 110 of the JJ Act, (2) of 2016 and all other powers enabling in that behalf the Government of Maharashtra has framed the Rules known as the Maharashtra State Juvenile Justice (Care and Protection of Children) Rules 2018 effective from 13th March, 2018.

12. The above referred Act, Rules and Regulations governed the field of adoption in India. Adoption is a process other than the birth process, which creates parents and child relationship. It is a social and legal process by which a child of one set of parents becomes the child of another set of parents. Adoption as defined is the process through which the adopted child is permanently separated from the biological parents and becomes the legitimate child of the adoptive parents with all rights, privileges and responsibilities that are attached to the relationship. JJ Act introduced expression "child in need of care and protection."

13. Section 68 of the JJ Act relates to Central Authority known as Central Adoption Resource Authority to promote in-country adoptions and to facilitate inter-state adoptions in coordination with State Agency. CARA also perform the function of inter-country adoptions. Chapter 8 of JJ Act, 2015 deals with adoption. Section 56 relates to adoption. Section 57 relates to eligibility of a prospective adoptive parents. Section 58 provides procedure for adoption by adoptive parents living in India. Section 61 provides court procedure for adoption. Section 67 deals with State Adoption Resource Agency. The new guidelines issued by the Central and State Government simplify entire process of adoption and bring in greater transparency and clarity in the process. The following is broadly the process followed for adoption:

- “a) Parents register online on CARINGS (Child Adoption Resource Information and Guidance System) and select the preferred Adoption Agency for HSR (Home Study Report) and State*
- b) Required documents have to be uploaded within 30 days of registration.*
- c) Specialized Adoption Agency (SAA) conducts Home Study Report (HSR) of the PAPs and uploads it on CARINGS within 30 days from the date of submission of required documents on CARINGS.*
- d) Suitability of PAPs is determined (if not found suitable, PAPs informed with reasons for rejection)*

- e) PAPs reserve one child, as per their preference from up to 6 children.*
- f) PAPs visit the adoption agency within 15 days from the date of reservation and finalize.*
- g) If the child is not finalized within stipulated time, the PAPs come down in the seniority list.*
- h) On acceptance of the child by the PAPs, SAA completes the referral and adoption process (on CARINGS)*
- i) PAPs take the child in pre-adoption foster care and SAA files petition in the court and the adoption Court order is issued.*
- j) Post-adoption follow-up report is conducted for a period of two years.”*

14. Now coming to the fact of the case on hand :

Child, Dewanshu was found abandoned on 22/11/2019 by local NGO Samaj Bhan group. The child was not produced before the CWC at Jalna within a period of 24 hours as per Section 31 of the JJ Act, 2015 by the local NGO Samaj Bhan group, but was given in custody of the petitioners on same day viz. 22.11.2019 by said Samaj Bhan Group. Child Dewanshu (then 7 months old) was produced before the CWC, Jalna on 13/01/2020 by local NGO Samaj Bhan Group.

15. Biological mother of the child was produced before CWC Jalna on 13/01/2020. It is stated that she denied to take responsibility of the child and executed release deed on 13/01/2020 before CWC Jalna and on that basis CWC has placed the child in foster care with the petitioners.

16. The welfare of a child shall be the paramount consideration while giving the child in adoption.

17. On going through the pleadings and affidavits of the parties it is evident that local NGO Samaj Bhan organization has given custody of child Dewanshu directly to the petitioners on the same day it was found abandoned by said local NGO. It is not clear whether said local NGO is duly registered under the Maharashtra Public Trust and J.J. Act and Rules. Section 31 of the J.J. Act provides that any child in need of care and protection shall be produced before the CWC without any loss of time within a period of 24 hours excluding the journey time. In the case at hand, above said local NGO has violated Section 31 of the Act by not producing the child before CWC Jalna. Child Dewanshu was found abandoned on 22/11/2019 and he was produced for the first time before CWC Jalna on 13/01/2020 by causing inordinate delay. Further it is evident that mother of the child seems to have executed a release deed in respect of her child in presence of CWC Jalna on 13/01/2020. The release deed dated 13/01/2020 is not according to the provisions of the JJ Act and Rules and same is not in prescribed format. Section 35 of the Act provides that CWC needs to complete the process of enquiry and counselling of the parents, who wish to surrender the child before CWC. After completion of inquiry and counselling of said parents, if CWC

satisfies then only parents shall execute a surrender deed. In the case at hand biological mother has executed a release deed instead of surrender deed, which is against the provisions of JJ Act, 2015. Further more it is evident that CWC has completed the process of institutionalization and surrender of said child hurriedly and given the said child in foster care to the petitioners on the basis of release deed on the same day in gross violation of JJ Act, 2015. The institutionalization order passed by CWC dated 13/01/2020 is defective in the eye of law.

18. Further it is evident that CWC has not conducted proper enquiry in respect of parents of the child who intend to surrender the child before CWC. In the case at hand biological mother of the child stated to be 50 years old. On the date of execution of release deed the child was 7 months old. It was necessary for the CWC Jalna to verify the documents of biological mother and verify the circumstances which compelled the mother to surrender the child. What is family background of the biological mother, what are the antecedents etc., seem to have not verified by CWC though Act casts duty on it.

19. Further it is evident that child is given in temporary custody of the petitioners on the basis of foster care agreement on 13/01/2020 i.e. on the very day of release deed allegedly executed by the mother. According to the Rule 25 read with Rule 46 of JJ Act Rules 2018 the CWC shall take

decision related to placement of a child for foster care. The children in age group of 6 and above may be considered for placement in foster care in the circumstances mentioned in sub-Rule 1 of Rule 46. The child to be given in foster care must be legally free for adoption. Such child shall be provided a permanent family through adoption as per adoption regulations. In case at hand CWC Jalna has given the child in foster care to the petitioners for a period of 90 days by its order dated 13/01/2020 which is contrary to Rule 46(v) of the Rules 2018.

20. The question poses how CWC Jalna has given the custody of a child to the petitioners without completing the process of surrender as contemplated under Section 35 of the Act, 2015 and Rule 19(22) of Rules 2018. The order of foster care passed by CWC is before expiry of 2 months from the date of surrender and violative of above said provisions of JJ Act and Rules.

21. Further it is evident that CWC has passed the order of foster care simply on the basis of social investigation report, which is also incomplete. There is no medical report to certify that child is fit to be given in foster care. There is no home study report to assess the suitability of the petitioners as a foster parent. Section 55 of the Act, 2015 casts duty on CWC to declare the parents as fit for foster care. The CWC has not followed due procedure.

22. Once a child is produced before the CWC, the JJ Act, 2015, Maharashtra Juvenile Justice (Care and Protection of Children) Rules, 2018 and guidelines of Central Adoption Resource Agency need to be followed strictly to protect best interest of a child.

23. Further it is pointed out by learned Advocate for respondent no.9 Manager SAKAR that Specialized Adoption Agency (Smt. Rajkunvar Rameshchandra Bang Shishu Gruha, Jalna) did not upload the information of the child (CNCP) on CARA, CARINGS platform and even not uploaded the information on National Tracking System for missing and vulnerable children though it is mandatory as per the JJ Act, 2015.

24. It is pointed out by Mrs. Gondhalekar, learned advocate for respondent no.9 that as per Rule 25(13) of the Rules 2018, the age of foster parents should be above 35 years of age, but the age of the petitioners is admittedly below 35 years and contravened Rule 25(13). Mrs. Gondhalekar further pointed out that Rules 25((9) to 25 (16) are not followed by CWC, Jalna / respondent no.7 and directly passed final order of foster care of Dewanshu. It is clear-cut violation of the provisions of JJ Act and Rules.

25. It is pointed out by Mrs. Gondhalekar, learned advocate that Regulation no.7 of Adoption Regulation, 2017 deals with procedure

relating to surrender of child. The said procedure is not adhered to by CWC, Jalna. She submitted that Chapter-3 of Adoption Regulations, 2017 describes “adoption procedure for resident Indians”. Regulation 10 relates to referral of a child from Specialized Adoption Agency through Child Adoption Resources Information and Guidance System (CARINGS) to prospective adoptive parents. This regulation itself stipulates the seniority of the prospective adoptive parents, the seniority is calculated from the date of uploading of documents and completion of registration process in CARINGS. The petitioners are required to follow the procedure and must stand in the queue as a prospective adoptive parent to complete the adoption procedure.

26. Mr. Patil, learned counsel for the petitioners has relied upon certain citations in support of his argument, which are considered with the facts of the case on hand

i) In case of *Sivarama K. and others vs. The State of Kerala and others, 2020(1)KLT, 294*, the writ petition was filed to produce a child. It was a writ of habeas corpus. In that case the biological parents had given their child in adoption to the adoptive parents after fulfilling all the provisions of the Hindu Adoption and Maintenance Act, 1956, that too, after executing a registered adoption deed. The facts of the cited case and the facts of the case at hand are quite distinguishable and as such said decision is not anyway helpful to the petitioners.

ii) In case of ***Aniruddha M. Railkar Vs. Indian Council for Social Welfare*** reported in ***AIR Bombay R 2007 page 471***, the Division Bench of this Court was pleased to quash and set aside the order passed by the Family Court, Pune rejecting the petitioners prayer for adoption of an Indian child Shubham. On going through the citation, it is noticed that CARA had given clearance for adoption and in that background the parents who are foreign nationals of Indian origin residing in the U.S.A. allowed to complete the adoption procedure. The facts of the case on hand are quite different.

iii) Mr. Patil, learned advocate further placed his reliance in the case of ***Harishbhai C. Limbachiya and another vs. State of Maharashtra and others (Writ Petition No. 1489 of 2017)*** decided by the Division Bench at principle seat on 31st August, 2017. On going through the same, we noticed that it was a writ of habeas corpus. The Division Bench was pleased to pass interim order regarding custody of the minor child to the petitioners. It is not a final order and does not render any assistance to the petitioners.

iv) Mr. Patil, learned advocate for petitioners further relied upon in case of ***Petrik Francis Rodrigues and another vs. State of Maharashtra and others, (Criminal Writ Petition No. 334 of 2017)*** decided by the Division

Bench at principle seat on 14/02/2017. Again it was a case of writ of habeas corpus and by way of interim order and taking into consideration welfare of the minor child, interim custody was handed over to the petitioners. It is not a final order.

v) In *Suo Moto Writ Petition (Civil) No.4 of 2020*, decided on 03/04/2020 by the Supreme Court, it is held by taking into situation COVID-19 pandemic, interest of the children should be looked into. Interest of these children all of whom fall within the ambit of Juvenile Justice (Care and Protection of Children) Act, 2015 should be protected and to prevent the same, certain directions are issued.

27. Having regard to the stock of citations (supra) relied upon by Mr. Patil, learned advocate for the petitioners, none of them supports to his case.

28. We found merit in the argument advanced by the learned Assistant Solicitor General, AGP and Mrs. Gondhalekar for respective respondents. The case at hand is a classic example of breach of provisions of JJ Act, 2015 and Rules 2018 which deals with adoption of child who is termed as child in need of care and protection. The child Dewanshu was in the custody of the petitioners for a period of 7 months on the basis of foster care agreement but that foster care agreement is found to be in breach of

provisions of JJ Act and Rules. The CWC, Jalna by blatant violation of mandatory provisions of JJ Act, 2015 and Rules 2018 seem to have given custody of a child to the petitioners by way of foster care agreement. The entire process is found to be defective in the eye of law.

29. We understand the feelings and emotions of petitioners. We also understand the petitioners' may have developed attachment with the child Dewanshu. At the same time, we cannot overlook mandatory provisions of JJ Act, 2015 and Rules 2018, which provides welfare of a child before giving a child in adoption. This Court allowed the petitioners to move Relaxation Committee of Central Adoption Resource Authority and directed CARA to consider the case of the petitioners having regard to its peculiar facts. However, the Relaxation Committee vide its decision dated 11.02.2021 communicated that the present case does not come under the preview of the Relaxation Committee constituted under the provision of the Adoption Regulations Act 2017, which is passed on the JJ Act 2015.

30. In case of *S. Vanitha (Smt. Vs. Deputy Commissioner, Bengaluru Urban District and Others, reported in 2020 SCC online SC 1023*, the Hon'ble Supreme Court has emphasized upon the necessity to protect the rights of the children so as to give purposeful interpretation to the definition of child in need of care and protection under Section 2 (14) of the JJ Act, 2015.

31. In this background, we are of the considered opinion that the male child in the facts and circumstances of the present case, is in need of care and protection and proper procedure is not followed while giving the custody to the petitioners on the basis of foster care agreement. The petitioners are resident of Khamgaon, District Buldana. Local NGO Samaj Bhan is from Jalna. The question poses how Samaj Bhan a local NGO came to know that the petitioners are issueless and they want to adopt a child. How a local NGO made contact with the petitioners on 22.11.2019 and handed over the custody of the abandoned child directly to the petitioners also a suspicious circumstance. In SMPIL No. 2 of 2020 (Registrar (Judicial) Vs. Union of India and others), this Court has issued certain directions and in pursuance of directions issued by this Court, the District Women and Child Development Officer, Jalna has filed F.I.R. bearing No.0577 of 2020 dated 18.12.2020 against the members of Child Welfare Committee, Jalna and Directors of Marwadi Charitable Trust, Jalna regarding illegalities committed in the process of adoption. In the above background, the entire process of giving interim custody of child on execution of foster care agreement in this case is highly tainted. There is no application of provisions of JJ Act 2015 and Rules 2018.

In view of the above, the prayers made by the petitioners cannot be granted. We arrived at this conclusion by keeping the best interest of the male child as being paramount consideration.

32. In view of above, we find that there is no merit in the writ petition. Accordingly, the writ petition is dismissed. Rule is discharged. No order as to costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA.)
JUDGE

S P. Rane