

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 3692 of 2022

Specialized Adoption Agency (SAA), Petitioners
Jajpur and others

Miss Deepali Mahapatra, Advocate

-versus-

Family Court Judge, Family Court, Opp. Party
Jajpur

Mr. S.N.Mishra,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
02.05.2022

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. Petitioners being Government registered Specialized Adoption Agency (SAA) and its functionaries and the Prospective Adoptive Parents (for convenience 'PAPs'), have filed this writ petition assailing the judgment and order dated 11th October, 2021(Annexure-1) passed in Civil Proceeding No.270 of 2021, whereby learned Judge, Family Court, Jajpur rejected an application filed under Section 58(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for convenience, 'the Act'). The said application was rejected on the ground of non-availability of a valid Home Study Report (for convenience, 'HSR')
3. Miss Mahapatra, learned counsel for the Petitioners submits that Petitioner Nos. 3 and 4 have accepted the child on 12th August, 2021. As required under Regulation 9(12) of the

Adoption Regulations, 2017 (for short, 'Regulations'), HSR was submitted on 1st May, 2018. As per Clause-9(12) of the Regulations it (HSR) will remain valid for a period of three years from the date of issue. Although the Petitioners before learned Judge, Family Court, Jajpur were in possession of revalidated HSR prepared on 10th September, 2021, but inadvertently could not produce the same before the Family Court at the time of hearing, for which the impugned order under Annexure-1 has been passed.

4. Miss Mahapatra, learned counsel for the Petitioners also draws attention of this Court to the copy of the revalidated HSR dated 10th September, 2021 enclosed to the writ petition as Annexure-5. She, therefore, submits that the petition under Section 58(3) of the Act requires fresh consideration taking note of the revalidated HSR dated 10th September, 2021. Hence, she prays for setting aside the impugned order and remit the matter back to learned Family Court, Jajpur for consideration of CP No.270 of 2021 afresh in accordance with law.

5. Mr. Mishra, learned AGA submits that the PAPs should not have been impleaded as parties to the petition under Section 58(3) of the Act. Only the agency should file an application under Section 58 (3) of the Act. He, however, submits that he has no instruction with regard to the correctness of revalidated HSR stated to have been prepared on 10th September, 2021.

6. Taking into consideration the submissions of learned counsel for the parties and on perusal of the impugned order under Annexure-1, it appears that the application filed by the

Petitioners under Section 58(3) of the Act was rejected on the following findings:-

“In the present case the Home Study report vide Ext.12 was submitted on 1.5.2018. As per Regulation 9(12) of Adoption Regulations, 2017 Home Study Report shall remain valid for three years and shall be the basis of adoption of a child by the Prospective Adoptive Parents. As it appears from the evidence of P.W. 1 as well as Ext.1 and 2, the Child Study Report and Medical Examination Report respectively, the PAPs had accepted the above named child on 12.08.2021 i.e. after three years of submission of Home Study Report. As such the Home Study report was not valid during acceptance of the child by the PAPs. The same has also not revalidated. Since the Home Study report is the basis for adoption of a child by the PAPs and the same not being valid the Petitioner-Organization in my view are not to be allowed to give the adoption of the child named above in adoption to the PAPs. Hence, it is ordered.....”

Thus, it appears, the only ground on which the application under Section 58(3) was rejected was due to non-availability of revalidated HSR. Learned counsel for the Petitioners submits that although same was in possession of the Petitioners at the time of hearing of the case, but inadvertently the same could not be produced. It is also submitted that in view of Clause-10 (14) of the Regulations stipulates that registration of PAPs shall continue till child adoption, with revalidation of HSR in every three years.

7. In view of the above and keeping in mind the welfare of the child, another opportunity should be given to the Petitioners to produce the revalidated HSR, if any, to enable the PAPs to adopt child. Accordingly, the impugned order under Annexure-1 is set aside. This Court, without expressing any opinion on the merit of the case of the Petitioners, remits the matter back to

learned Judge, Family Court, Jajpur for fresh consideration of the matter in accordance with law.

8. It is made clear that in the event Petitioners submit revalidated HSR stated to have been prepared on 10th September, 2021 within a period of two weeks hence along with an application to accept the same enclosing certified copy of this order before learned Judge, Family Court, Jajpur, he shall do well to accept the same and adjudicate the matter afresh in accordance with law examining the validity and applicability of the said revalidated HSR to the case at hand giving opportunity of hearing to the parties concerned.

9. With the aforesaid observation and direction, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge