

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.94 of 2022

***Subhadra Mahatab Seva Sadan,
Khurda***

..... Petitioner

Mr. L. Sharma, Advocate

-versus-

XXXXXX

***.....
Mr. K.K. Nayak, A.S.C.***

CORAM:

JUSTICE A.K. MOHAPATRA

**ORDER
15.03.2022**

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. The present revision petition, which has been filed at the instance of Specialized Adoption Agency-Petitioner No.1 and Prospective Adoptive Parents (PAP) Petitioner Nos.2 and 3, is directed against order dated 04.12.2021 passed in CMA No.12 of 2021 as well as order dated 24.12.2021 passed in Review Petition No.2 of 2021 arising out of above noted CMA by the learned District Judge, Khurda at Bhubaneswar. Learned District Judge, Khurda, Bhubaneswar by impugned order dated 04.12.2021 passed in CMA No.12 of 2021 has rejected the joint petition filed by the Specialized Adoption Agency and the Prospective Adoptive parents (PAP) under Section 59(7) of the Juvenile Justice (Care and Protection of

Children) Act, 2015 (2 of 2016) read with Clause(s) 12(2) and 17(1) of the Adoption Regulations, 2017.

3. The factual back drop of the Petitioner's case, in brief, is that the Petitioner Nos.2 and 3, who are husband and wife are citizens of United State of America (USA). The USA is a signatory to the Hague Convention on Inter-Country Adoption, 1993 and as such as ratified the declaration of law in aforesaid convention. It is also pertinent to mention here that India is also a signatory to the Hague Convention on Transnational Adoptions. Accordingly, the Petitioner Nos.2 and 3 moved an application seeking permission to adopt a minor female child, namely, XXX born on 03.05.2019. It is stated that XXX has been abandoned by her parents for some social and health reasons and thereafter the Petitioner No.1 has been bestowed with the responsibility of looking after the helpless poor child.

4. From the materials available on record, this Court came to know that XXX, a minor child, is currently living in the Orphanage cum Adoption Placement Agency known as ***Subhadra Mahatab Seva Sadan, Khurda***. The child is suffering from sickle cell and Anemia diseases, which is incurable by its nature. Further, it is understood that although she is residing in the aforesaid orphanage since last two years with her present medical condition and most unfortunately no family has either come forward or any interest in her and was ready and willing to adopt the poor and helpless child and look after her and provide her a better future give her the love and affection of a family she requires the most as a human being.

5. The Petitioner No.2- A, who is a resident doctor, and Petitioner No.3- B wife of the Petitioner No.2 are citizens of United

States of America (USA). Both the Petitioner Nos.2 and 3 were interested to adopt the girl child as they have been blessed with three male children and are living happily in the United States of America. The Balle family visited ***Subhadra Mahatab Seva Sadan, Khurda*** and came to know about XXX. Thereafter, both the Petitioner Nos.2 and 3 developed interest and weakness for XXX. It is apt to mention here that XXX after being abandoned by the biological parents was received by ***Subhadra Mahatab Seva Sadan, Khurda*** on 20.04.2019.

6. The Petitioner Nos.2 and 3 obtain required permission from Central Adoption Resources Authority (CARA), the body of Ministry of Women and Child Development, Government of India, for adoption of XXX from India. A copy of the “No Objection Certificate” (in short ‘NOC’) issued by (CARA) vide letter dated 13.08.2021 has been annexed to the writ petition as Annexure-3. The aforesaid “No Objection Certificate” reveals that NOC is issued as per Adoption Regulations, 2017 and Article-17(c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption 1993. Further the said NOC reveals that the above noted ***Subhadra Mahatab Seva Sadan, Odisha and International Adoption Net, USA*** have been authorized to process this adoption case.

7. The Petitioners have also obtained permission of the Child Welfare Committee, Khurda under Section 38 of the Juvenile Justice (Care and Protection of Children), 2015 (2 of 2016). The said committee vide certificate issued in Form : Schedule-I and has given a declaration that the child in question is legally free for adoption. In view of the said declaration by the Child Welfare Committee,

Khurda, it is submitted by learned counsel for the Petitioners that there is no legal impediment for Transnational Adoption of xxxxx by the Petitioner Nos.2 and 3(PAPs).

8. The Petitioner Nos.2 and 3 also produced the permission letter issued by the Central Authority of United States under Article-17 of the Hague Convention for adoption of XXX by the Petitioner Nos.2 and 3. A letter dated 2nd of July, 2021 issued by the office of the Embassy of the United States of America has been placed on record in support of the aforesaid contention. Thus in view of such permission, by appropriate authority in the United States of America, XXX will be authorized to enter into and reside in the United States of America following adoption by the Petitioner Nos.2 and 3. The aforesaid letter has been issued by the appropriate authority in USA in pursuance to the requirement under the Hague Convention. Therefore, there exists no legal impediment for the Adoption of the child in question by the Petitioner Nos.2 and 3, the prospective adoptive parents.

9. It is also borne out from the record that upon adoption of child XXX by the Petitioner Nos.2 and 3, she would be re-named as “XXXX” such change of name has also been approved by the competent authority and the same has been communicated to the Petitioner Nos.2 and 3 vide letter dated 28th of July 2021.

10. Heard Mr. Lokesh Sharma, learned counsel appearing for the Petitioner as well as Mr. K.K. Nayak, learned Additional Standing Counsel appearing for the State.

11. Learned counsel for the Petitioner submits that despite having clearance by the authorities under the Hague Convention as well as

under Juvenile Justice (Care and Protection of Children) Act, the learned District Judge, Khurda has illegal and arbitrarily rejected the application filed by the Petitioner Nos.2 and 3 seeking permission to adopt XXX. He further submits that child XXX is living in an Orphanage known as Subhadra Mahatab Seva Sadan, Khurda after she was abandoned by her biological parents due to social and health reasons. He further submits that the child is suffering from Sickle Cell disease, which is incurable in nature. Learned counsel for the petitioner also submits that after visiting XXX, Petitioner Nos.2 and 3 developed a weakness for her and both are interested in adopting XXX as their own child and that the adoptive parents would take all possible care of the child as one of the adoptive parents is a resident doctor in the United States of America. It is further submitted that the Petitioner Nos.2 and 3 have already obtained the permission of "CARA" and the concerned District Welfare Committee, Khurda has already issued "No Objection Certificate." Therefore, there is no legal impediment in allowing adoption in favour of Petitioner Nos.2 and 3.

12. Mr. Sharma, learned counsel for the Petitioner further submits that the child XXX after being deserted by her biological parents is being looked after by the Petitioner No.1, namely ***Subhadra Mahatab Seva Sadan, Khurda***, however, if the adoption is allowed then she would definitely get better personalized attention and care from the Petitioner Nos.2 and 3 and he further assures the Court that the Petitioner Nos.2 and 3 shall provide best of health care facility to XXX in the United States of America. Further, considering the life style and the average per capita income as well as facilities/opportunities available in the USA, the future of the child is

absolutely safe and secure. It is further submitted by Mr. Sharma that the only apprehension expressed by the learned District Judge, Khurda, Bhubaneswar is with regard to income of Petitioner Nos.2 and 3 and in that context he submits that such apprehension is baseless and not supported by any material on record. Rather the authority under the Hague Convention in USA known as Central Authority of the United States of America has already granted its approval for adoption of the child by the Petitioner Nos.2 and 3, who are admittedly citizens of USA. He further submits that since Central Agency for adoption in USA has already granted permission under Section 17 of the Hague Convention, it is presumed that they must have verified the financial and social background of Petitioner Nos.2 and 3 before permitting them to go for adoption. Further, under the International laws declared by either the United Nation or any International Agency or any Convention to which the countries are signatories and the laws and regulations declared in such Convention are ratified by the member countries, such laws and regulations are binding on such member Countries who have signed and ratified such laws and regulations. Therefore, in the present case, both India and USA being signatories to the Hague Convention and having ratified the declaration and the laws enacted in the said Convention both the countries are bound by laws declared in the Hague Convention.

13. Learned counsel for the petitioner in support of his contention that there is no legal impediment in adoption of the child by the Petitioner Nos.2 and 3 has also relied upon a judgment of the High Court of Chhatisgarh in the matter of *Seva Bharti Matruchhaya, Durg vrs.* xxx in Criminal Revision No.97 of 2018 decided on

25.07.2019. He has also relied upon a judgment delivered by Bombay High Court in Foreign Adoption Petition No.14 of 2019 decided on 2nd May, 2019 in the matter of ***Bal Asha Trust, Bal Asha Dham vrs. Caleb Joseph Butler, American and Jayme Lynn Butler, American***. In the above noted Bombay High Court Judgment, which was a case where the prospective adoptive parents are from USA and their current annual income has been shown to be \$46,825.00 in the aforesaid judgment of the Bombay High Court and the adoptive parents were married for past 13 years and they are having three biological children. The facts of the case decided by Bombay High Court in ***Bal Asha Trust, Bal Asha Dham vrs. Caleb Joseph Butler and another*** (supra) are all most identical to the facts of the present case.

14. The issue of inter country adoption of an Indian child engaged the attention of the Hon'ble Supreme Court of India in ***Lakshmi Kant Pandey vs. Union of India*** reported in (1984) 2 SCC 244. The Hon'ble Apex Court was dealing with a writ petition which had been initiated on the basis of a letter addressed by one Laxmi Kant Pandey, an advocate practising in Supreme Court, complaining of mal-practices indulged in by social organisations and voluntary agencies engaged in the work of offering Indian children in adoption to foreign parents. After discussing the issue in threadbare, the Supreme Court of India while laying down the guidelines has observed as follows;

“24. These are the principles and norms which must be observed and the procedure which must be followed in giving a child in adoption to foreign parents. If these principles and norms are observed and this procedure is followed, we have no doubt that the abuses to which inter-country adoptions, if allowed without any safeguards, may lend themselves would be

considerably reduced, if not eliminated and the welfare of the child would be protected and it would be able to find a new home where it can grow in an atmosphere of warmth and affection of family life with full opportunities for physical intellectual and spiritual development. We may point out that the adoption of children by foreign parents need not wait until social or child welfare agencies are recognised by the Government as directed in this order, but pending recognition of social or child welfare agencies for the purpose of inter-country adoptions, which interregnum, we hope, will not last for a period of more than two months, any social or child welfare agency having the care and custody of a child may be permitted to process an application of a foreigner, but barring this departure the rest of the procedure laid down by us shall be followed wholly and the principles and norms enunciated by us in this Judgment shall be observed in giving a child in inter-country adoption.”

The judgment of the Hon’ble Supreme Court of India was delivered much prior to the Hague Convention as well as the law on adoption was crystallized in India.

15. In ***Stephanie Joan Becker v. State*** reported in (2013) 12 SCC 786, the Hon’ble Supreme Court of India has observed as follows;

“4. The law with regard to inter-country adoption, indeed, was in a state of flux until the principles governing giving of Indian children in adoption to foreign parents and the procedure that should be followed in this regard to ensure absence of any abuse, maltreatment or trafficking of children came to be laid down by this Court in *Lakshmi Kant Pandey v. Union of India* [*Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244] :

4.2. This Court in *Lakshmi Kant Pandey* [*Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244] also laid down the approach that is required to be adopted by the courts while dealing with applications under the Guardians and Wards Act seeking orders for appointment of foreign prospective parents as guardians of Indian children for the eventual purpose of adoption. Such directions, it may be noticed, were not

only confined to hearing various organisations like the Indian Council for Child Welfare and the Indian Council of Social Welfare by issuance of appropriate notices but also the time period within which the proceedings filed before the Court are to stand decided.

4.3. Above all, it will be necessary for us to notice that in *Lakshmi Kant Pandey* [*Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244] this Court had observed that: (SCC p. 271, para 16)

“16. ... Of course, it would be desirable if a Central Adoption Resource Agency is set up by the Government of India with regional branches at a few centres which are active in inter-country adoptions. Such Central Adoption Resource Agency can act as a clearing house of information in regard to children available for inter-country adoption and all applications by foreigners for taking Indian children in adoption can then be forwarded by the social or child welfare agency in the foreign country to such Central Adoption Resource Agency and the latter can in its turn forward them to one or the other of the recognised social or child welfare agencies in the country.”

5. Pursuant to the decision of this Court in *Lakshmi Kant Pandey* [*Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244] surely, though very slowly, the principles governing adoption including the establishment of a central body i.e. Central Adoption Resource Authority (CARA) took shape and found eventual manifestation in a set of elaborate guidelines laid down by the Government of India commonly referred to as the Guidelines For Adoption From India, 2006 (hereinafter referred to as “the Guidelines of 2006”). A reading of the aforesaid Guidelines indicates that elaborate provisions had been made to regulate the pre-adoption procedure which culminates in a declaration by the Child Welfare Committee that the child is free for adoption....”

16. Similarly the Hon’ble Supreme Court of India in *Shabnam Hashmi v. Union of India* reported in (2014) 4 SCC 1 referring to *Lakshmi Kant Pandey’s Case* (Supra) has held as follows;

“4. The decision of this Court in Lakshmi Kant Pandey [(1984) 2 SCC 244] is a high watermark in the development of the law relating to adoption. Dealing with inter-country adoptions, elaborate guidelines had been laid down by this Court to protect and further the interest of the child. A regulatory body i.e. Central Adoption Resource Agency (for short “CARA”) was recommended for creation and accordingly set up by the Government of India in the year 1989. Since then, the said body has been playing a pivotal role, laying down norms both substantive and procedural, in the matter of inter as well as intra-country adoptions. The said norms have received statutory recognition on being notified by the Central Government under Rule 33(2) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 and are today in force throughout the country, having also been adopted and notified by several States under the Rules framed by the States in exercise of the rule-making power under Section 68 of the JJ Act, 2000.”

17. On a careful conspectus of the facts of the present case, it is seen that the minor child whose adoption is in issue in the present Revision Petition and who is suffering from Sickle Cell disease which undoubtedly an incurable disease, would be better looked after by the adoptive parents, i.e. Petitioner Nos.2 and 3. This Court is also convinced with regard to the income of the present Petitioner Nos.2 and 3. Moreover, the minor adoptive child would undoubtedly get better health facility in the United States of America and as such her treatment could be done in the best possible manner by the adoptive parents.

18. By order dated 04.03.2022, this Court had directed learned Additional Standing Counsel for the State to obtain instruction with regard to the health condition of the minor child. On instruction, learned counsel for the State submits that the minor child is stable

now and living in the above noted orphanage. Therefore, there exists no apprehension on health issues, if the child is given in adoption as approved by the authorities of both Countries and taken to the country of her adoptive parents i.e. United States of America.

19. So far the legal issues with regard to the adoption are concerned, Juvenile Justice (Care and Protection of Children) Act was amended in the year 2015 and elaborate provisions were made in the statute book in terms of the Lakshmi Kanta Pandey's Case (Supra) as well as the declaration of law in Hague Convention for adoption of a orphan, abandoned and surrendered child in India. under Section 59 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which deals with the procedure for Inter-country adoption of an orphan or abandoned or surrendered child provides as follows:-

“59. Procedure for inter-country adoption of an orphan or abandoned or surrendered child—(1)

If an orphan or abandoned or surrendered child could not be placed with an Indian or non-resident Indian prospective adoptive parent despite the joint effort of the Specialised Adoption Agency and State Agency within sixty days from the date the child has been declared legally free for adoption, such child shall be free for inter-country adoption:

Provided that children with physical and mental disability, siblings and children above five years of age may be given preference over other children for such inter-country adoption, in accordance with the adoption regulations, as may be framed by the Authority.

(2) An eligible non-resident Indian or overseas citizen of India or persons of Indian origin shall be given priority in inter-country adoption of Indian children.

(3) A non-resident Indian or overseas citizen of India, or person of Indian origin or a foreigner, who are

prospective adoptive parents living abroad, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child from India, may apply for the same to an authorised foreign adoption agency, or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority.

(4) The authorised foreign adoption agency, or Central Authority, or a concerned Government department, as the case may be, shall prepare the home study report of such prospective adoptive parents and upon finding them eligible, will sponsor their application to Authority for adoption of a child from India, in the manner as provided in the adoption regulations framed by the Authority.

(5) On the receipt of the application of such prospective adoptive parents, the Authority shall examine and if it finds the applicants suitable, then, it will refer the application to one of the Specialised Adoption Agencies, where children legally free for adoption are available.

(6) The Specialised Adoption Agency will match a child with such prospective adoptive parents and send the child study report and medical report of the child to such parents, who in turn may accept the child and return the child study and medical report duly signed by them to the said agency.

(7) On receipt of the acceptance of the child from the prospective adoptive parents, the Specialised Adoption Agency shall file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(8) On the receipt of a certified copy of the court order, the specialised adoption agency shall send immediately the same to Authority, State Agency and to the prospective adoptive parents, and obtain a passport for the child.

(9) The Authority shall intimate about the adoption to the immigration authorities of India and the receiving country of the child.

(10) The prospective adoptive parents shall receive the child in person from the specialised adoption agency as soon as the passport and visa are issued to the child.

(11) The authorised foreign adoption agency, or Central Authority, or the concerned Government department, as the case may be, shall ensure the submission of progress reports about the child in the adoptive family and will be responsible for making alternative arrangement in the case of any disruption, in consultation with Authority and concerned Indian diplomatic mission, in the manner as provided in the adoption regulations framed by the Authority.

(12) A foreigner or a person of Indian origin or an overseas citizen of India, who has habitual residence in India, if interested to adopt a child from India, may apply to Authority for the same along with a no objection certificate from the diplomatic mission of his country in India, for further necessary actions as provided in the adoption regulations framed by the Authority.”

20. Further Section 61 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for the procedure to be followed by the Court and penalties to be imposed. Section 61(2) provides that adoption proceedings shall be held in camera and that the entire proceedings shall be disposed of by the concerned court within a period of two months from the date of filing. Further Regulation-12 of the Adoption Regulations, 2017, which deals with the legal procedure for adoption of a child provides as follows:-

“12. Legal procedure.- (1) The Specialised Adoption Agency shall file an application in the court concerned, having jurisdiction over the place where the Specialised Adoption Agency is located, with relevant documents in original as specified in Schedule IX within ten working days from the date of matching of the child with the prospective adoptive parents and in case of inter-country adoption, from the date of receiving No

Objection Certificate from the Authority, for obtaining the adoption order from court.

(2) The Specialised Adoption Agency shall file an application in the given format as per Schedule XXVIII or XXIX, as applicable.

(3) In case the child is from a Child Care Institution, which is not a Specialised Adoption Agency and is located in another district, the Specialised Adoption Agency shall file the application in the court concerned, in the district where the child or the Specialised Adoption Agency is located and in such a case, the Child Care Institution will be a co-petitioner along with the Specialised Adoption Agency and the Child Care Institution shall render necessary assistance to the Specialised Adoption Agency concerned.

(4) In case of siblings or twins, the Specialised Adoption Agency shall file single application in the court.

(5) Since an adoption case is non-adversarial in nature, the Specialised Adoption Agency shall not make any opposite party or respondent in the adoption application.

(6) The court shall hold the adoption proceeding in-camera and dispose of 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 subsection (2) of section 61 of the Act.

(7) The adoptive parents shall not be asked in the adoption order to execute any bond or make investment in the name of the child, considering the fact that their psycho-social profile and financial status have already been ascertained from the Home Study Report and other supporting documents.

(8) The Specialised Adoption Agency shall obtain a certified copy of the adoption order from the court and shall forward it to the prospective adoptive parents within ten days and it shall also post a copy of the order and update the relevant entries in the Child Adoption Resource Information and Guidance System.

(9) Registration of an adoption deed shall not be

mandatory as per the Act.

(10) The Specialised Adoption Agency shall apply to the birth certificate issuing authority for obtaining the birth certificate of the child within three working days from the date of issuance of adoption order, with the name of adoptive parents as parents, and date of birth as recorded in the adoption order and the same shall be issued by the issuing authority within five working days from the date of receipt of the application.

(11) The Specialised Adoption Agency shall submit an affidavit to the court while filing a petition as provided in Schedule XXIII.”

21. Regulations 12 and 17 deals with legal procedure to be followed in a case of inter-country adoption. Similarly Regulations 19 provides for follow up progress of adopted child by Non-Resident Indian, Overseas Citizens of India and foreign prospective adoptive parents. Regulations 17 and 19 has been extracted herein below:-

“17. Legal Procedure.- (1) The legal procedure as provided in regulation 12 shall, mutatis mutandis be followed in cases of inter-country adoption under this Chapter.

(2) In cases of the prospective adoptive parents habitually residing abroad and wanting the Specialised Adoption Agency to represent on their behalf as well, the application shall also be accompanied by a Power of Attorney in favour of the social worker or adoption in-charge of the Specialised Adoption Agency which is processing the case and such Power of Attorney shall authorise a social worker to handle the case on behalf of the prospective adoptive parents.”

“19. Follow-up of progress of adopted child by Non-Resident Indian, Overseas Citizens of India and foreign prospective adoptive parents.- (1) The Authorised Foreign Adoption Agency or the Central Authority or Indian diplomatic mission or Government department concerned, as the case may be, shall report the progress of the adopted child for two years from the date of arrival of the adopted child in the receiving country, on a quarterly basis during the first year and

on six monthly basis in the second year, by uploading online in the Child Adoption Resource Information and Guidance System in the format provided in Schedule XII along with photographs of the child.

(2) On the basis of the progress report or in course of post-adoption home visits, if an adjustment problem of an adoptee with the adoptive parents comes to the notice of the Authorised Foreign Adoption Agency or Central Authority or the Government department concerned in the receiving country, necessary counseling shall be arranged for the adoptive parents and for the adoptee, wherever applicable.

(3) If it is found that the adoptee is unable to adjust in the adoptive family or that the continuance of the child in the adoptive family is not in the interest of the child, the Authorised Foreign Adoption Agency or Central Authority or the Government department in the receiving country or Indian diplomatic mission concerned, as the case may be, shall withdraw the child and provide necessary counseling and shall arrange for suitable alternate adoption or foster placement of the child in that country, in consultation with the Indian diplomatic mission and the Authority.

(4) In case of disruption or dissolution of adoption, the child shall be entitled to receive care, protection and rehabilitation through the child protection services of that country and as per Hague Adoption Convention for the Hague Adoption Convention ratified countries.

(5) The Authorised Foreign Adoption Agency or Central Authority or Government department concerned shall contact Indian diplomatic mission to render necessary help and facilitate the repatriation of the child, if required.

(6) The Authorised Foreign Adoption Agency or Central Authority or Government department concerned, may organise annual get-together of Indian adoptees and their adoptive parents and forward a report of the event to the Authority and the Indian diplomatic missions shall facilitate such get-togethers.

(7) The prospective adoptive parents shall furnish an undertaking to the effect that they would allow personal visits of the representative of Authorised

Foreign Adoption Agency, the foreign Central Authority or Government department concerned, as the case may be, to ascertain the progress of the child with the adoptive parents or family at least for a period of two years from the date of arrival of the child in the receiving country”

22. So far the State of Odisha is concerned, the State Govt. in exercise of power conferred under section 110(1) of the J.J.(C &PC) Act, 2015 has framed a set of rules which is known as Juvenile Justice (Care and Protection of Children) Rules, 2018. The aforesaid Rules were notified by the State Govt. vide a Notification dtd. 21.07.2018. Chapter VII of the Rules i.e. Rule 74 to 87 deals with child adoption related issues. The Rules so framed provides adequate safety measures in case of adoption of a orphan, abandoned or surrendered child. It is relevant to note the provisions of Rule 33 (29) of the Rules;

33. Procedure for inquiry.- (1) The Committee shall inquire into the circumstances under which the child is produced and accordingly declare such child to be a child in need of care and protection.

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29) The Committee, after making inquiry as per the provisions of the Act, shall issue an order in Form 25 declaring the abandoned or orphan child as legally free for adoption and send the same information to the Authority.

23. On a careful reading of the impugned order passed by the District Judge, Khurda at Bhubaneswar refusing to grant permission for adoption, this Court observes that the only ground, learned court below has taken is with regard to the income of the Petitioner Nos.2 and 3 (PAPs). As discussed hereinabove that the income disclosed by the PAP is much above than the income shown *Asha Bal Trust*

case (supra) decided by the Bombay High Court. Therefore, this Court feels, there is no other impediment in permitting adoption of the child in question by PAPs. Moreover, it is the responsibility of the Central Adoption Authority of USA under the Hague Convention to verify those aspects of the matter keeping in view the law declared in Hague Convention. Therefore, the ground taken by the learned court below to reject the permission, in my considered view, is unsustainable in law.

24. Considering the facts and circumstances and the materials on record, this Court is of the considered view that the order refusing to grant permission by the learned District Judge, Khurda is unsustainable in law and contrary to the spirit of the international law declared, signed and ratified by the member Nations in the Hague Convention as well as provisions Juvenile Justice (Care and Protection of Child) Act, 2015. Accordingly, in the larger interest of justice and to provide the poor, helpless and abandoned child a better future filled with the love and care of a family and parents, the impugned order dated 04.12.2021 passed in CMA No.12 of 2021 as well as order dated 24.12.2021 passed in Review Petition No.2 of 2021 by the District Judge, Khurda at Bhubaneswar deserves to be set aside and the same is hereby set aside.

25. The Petitioner Nos.2 and 3 are hereby granted permission to adopt the minor child by following the relevant laws and regulations.

26. The Revision petition is allowed. However, there shall be no order as to cost.

27. In view of the provision contained in Rule 77 (2) of the Juvenile Justice (Care and Protection of Children) Rules, 2018 : No

information or Court order regarding adoption disclosing the identity of the child shall be uploaded on any portal except as may be stipulated in the Regulation. Hence, it is ordered that this judgment shall not be reported/published disclosing the identity and details of the child given in adoption to the PAPs.

(A.K. Mohapatra)
Judge

Jagabandhu

