

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

244

CWP-3723-2021

Date of Decision: 22.09.2022

BARINDER SINGH NAGRA AND ANR

... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. N. K. Verma. Advocate
for the petitioners.

Mr. Karanjeet Singh, Addl. A.G., Haryana.

Mr. Akshay Kumar, Advocate for
Mr. Yatinder Sharma, Advocate
for the respondents No.3 & 4.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance a writ in the nature of Mandamus directing the respondent No.2 to register the Adoption Deed in relation to the adoption of respondent No.4 in favour of the petitioners.

Learned counsel for the petitioners contends that the petitioners are husband and wife while the respondent No.3 is widow of Mandeep Singh, deceased brother of petitioner No.1 and the respondent No.4 is minor son of respondent No.3 and Mandeep Singh- the deceased brother of petitioner No.1. The learned counsel for the petitioners contends that Mandeep Singh had died in a roadside accident on 19.07.2019 and at that point of time, the respondent No.3 was 3½ years old.

Since the respondent No.3 was unable to take care of her minor son (respondent No.4), therefore, she wanted to give respondent No.4 in adoption to the petitioners. Accordingly, a Deed of Adoption was duly

prepared. However, upon being presented before the respondent No.2 for registration, he refused to register the same without assigning any valid reason. Learned counsel for the petitioners contends that the Ministry of Child and Women Development, Government of India has notified the Adoption Regulations, 2017 vide notification dated 04.01.2017 in exercise of the powers conferred by Clause (c) of Section 68 read with Clause (3) of Section 2 of Juvenile Justice (Care and Protection of Children) Act, 2015 and in supersession of Guidelines Governing Adoption of Children, 2015 published in the Gazette of India on 17.07.2015. He contends that as per Regulation 5 so notified by the Government of India, adoption of a child is permissible even where the prospective adoptive parents are already blessed with biological son or daughter subject to the conditions prescribed therein. He contends that the Registrar is not registering the Adoption Deed by disregarding the aforesaid statutory provisions notified by the Government of India.

Learned State Counsel, however, contends that the petitioners have not approached the competent authority in terms of the Adoption Regulations, 2017 and that an appropriate order for giving a child in adoption has to be passed by the Adoption Committee constituted under the Adoption Regulations, 2017.

Learned counsel for the petitioners, upon being confronted with the same, prays that the petition may be disposed of enabling the petitioners to approach the Adoption Committee as constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Regulations framed thereunder and that an expeditious decision in a time bound manner may be taken upon such claim/representation submitted by the petitioners.

The aforesaid prayer of the petitioners is not objected to by the learned State counsel.

Accordingly, the present petition is disposed of with the consent of the parties and without commenting anything on the merits of the present case permitting the petitioners to approach the Adoption Committee constituted under the Adoption Regulations, 2017 and in the event of the petitioners approaching the aforesaid Adoption Committee as per the Adoption Regulations 2017 and seeking adoption of minor – respondent No.4, an expeditious decision shall be taken on such representation preferably within a period of three months of the receipt of such representation from the petitioners after affording an opportunity of hearing to the concerned parties.

Needless to mention that appropriate decision in accordance with law shall be taken thereupon

The petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

22.09.2022.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No