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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 22nd December, 2022

+ **W.P.(C) 8621/2021**

ANIL KUMAR SINGH AND ANR Petitioners

Through: Mr. Karan S. Thukral, Advocate.

versus

UNION OF INDIA Respondents

Through: Mr. Sushil Kr. Pandey, SPC, with Mr. Kuldeep Singh Advocates(M-9873588234)

Mr. Sumit Bhargava, Advocate with Sh. J. Pati, Director for CARA.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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22.12.2022

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by Petitioner No.1- Shri Anil Kumar Singh and his wife, Petitioner No.2- Mrs. Sonika Singh who are Non-Resident Indians. The Petitioners adopted a child- Navya Singh on 2nd August, 2011 from her biological parents. The adoption deed was registered on 3rd August, 2011. The Petitioners filed an application before the UK border agency for entry clearance in the UK which was rejected due to lack of a No-objection from the Indian adoption agency. Thereafter, repeated attempts made by the Petitioners to obtain an NOC from the Respondent, CARA from 2011 to 2016 were futile. The stand of CARA at that stage was that an adoption under the Hindu Adoption and Maintenance Act, 1956 was not covered. Finally, Petitioners filed a civil suit for declaration under Section 34 of the Specific Relief Act, 1963 in the Court of Civil Judge, Sr. Division. A decree declaring Petitioners to be the legal adoptive parents of

Ms. Navya Singh was passed by the said court on 25th August, 2017.

3. Subsequently, the Petitioner sent letters to the Respondent requesting CARA to recognise the adoption and to issue the NOC under the Hague Convention. In the meantime, CARA also conducted the verification of the documents and a Home Study Report ('HSR') was also prepared in the case of the Petitioners. Despite this, the current position is that the NOC has not been issued by CARA.

4. On the last date, the official from CARA was requested to be present online to assist the Court. Today, Id. Counsel for CARA, along with Mr. Jagannath Pati, Director, Program at CARA, has appeared and submits that in terms of, Adoption Regulations, 2022 (*hereinafter 'Regulations'*) the matter has been sent for verification to the District Magistrate.

5. The Court finds that in the present case the adoption dates back to 2011 and the application seeking NOC was filed much before the Regulations came into force on 23rd September, 2022. The Regulations have been notified and current applications, would require verification by the District Magistrate. However, in the present case a declaratory decree has already been passed to the following effect:-

"6. In the light of the circumstances of the case and the fact that in their written statement the defendants no. 1 and 2 have admitted the present case of the plaintiffs no. 1 and 2 and keeping in view the plaintiffs evidence led by the plaintiffs, this court is of the considered view that the prayer of the plaintiffs for declaring them as the legal adoptive parents of the adopted child namely Navya Singh can be allowed keeping in mind the facts and circumstances of the present case.

7. In view of the aforesaid discussion the present suit

is hereby decreed in favour of the plaintiffs wherein the plaintiffs are declared as legal adoptive parents of the adopted child namely Navya Singh.”

6. The HSR is also prepared. The adoption deed is a registered adoption deed. In these circumstances, this Court is of the opinion that the application being prior to the coming into force of Adoption Regulations, 2022, the said adoption would not be strictly required to be dealt with in the procedure prescribed in the said Regulations.

7. Mr. Jagannath Pati submits that the District Magistrate has already been contacted and is likely to send the verification shortly. Irrespective of whether the DM's verification, is received or not, in the unique facts of this case, which predates the coming into force of the Regulations, the NOC shall now be processed and issued by Respondent to the Petitioners within a period of 30 days from today, subject to availability of all documents on the record of CARA.

8. With these observations, the petition is allowed and disposed of along with all pending applications, if any.

PRATHIBA M. SINGH
JUDGE

DECEMBER 22, 2022
MR/SK