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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33803 of 2023

Ms.Prema Gopal

... Petitioner

Vs.

1. Central Adoption Resources Authority (CARA),
Rep., by its Director,
Ministry of Women and Child Development,
West Block 8, Wing 2,
2nd Floor, R.K. Puram,
New Delhi 110066

2. District Child Production Unit,
Department of Social Defence,
Anna Nagar, Ammanam Bakkam,
Chengalpet 603001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 01.10.2022 to issue the 'No Objection Certificate' with the intimation to Embassy.

For Petitioner

: Mrs.R.Nirmala Devi

For R1

: Ms.S.P.Arthi
Senior Panel Counsel



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For R2

: Mr.T.Venkatesh Kumar

ORDER

The writ of Mandamus has been instituted to direct the 1st respondent to consider the representation of the writ petitioner dated 01.10.2020 to issue No Objection Certificate with the intimation to Embassy.

2. The petitioner states that she is currently the citizen of United Kingdom (UK) and has got Overseas Citizenship in India under Section 7A of the Citizenship Act, 2003. The petitioner was born in India and her parents resided in India. She had resided along with her parents till the age of 28 years and thereafter, travelled to United Kingdom (UK) and secured citizenship in the United Kingdom (UK). The petitioner states that she is 49 years old and unmarried person. She has no intention to marry any more and decided to adopt daughter and son of her brother Mr.Janardhan Nandagopal. The brother of the writ petitioner is residing at Kancheepuram and she came to India and executed Adoption Deed by following the due process contemplated under Adoptions Act and Rules.

3. The learned counsel for the petitioner would submit that the adoption



of the children are validly made under the Indian Laws and the two children became the son and daughter of the petitioner. The petitioner wants to take the children to United Kingdom (UK) and submitted all necessary applications. An application was submitted to the 1st respondent for issuing No Objection Certificate, who in turn not considered the same and thus, the present writ petition came to be instituted.

4. The learned counsel for the petitioner drew the attention of this Court with reference to the provisions of the Adoption Act and the procedures contemplated under the Rules.

5. The provisions of the Adoption Act and the Rules are valid within the territory of India. While taking the adopted children to other countries, the procedures contemplated through treaties between the countries or through international conventions are to be scrupulously followed. The recognition of the child in a foreign country is of paramount importance. The status of the child is to be protected in other countries and only after ensuring that the children's rights are protected, the Indian Authorities would be in a position to issue No Objection Certificate or other necessary documents.



6. An adoption within the territory of India must be recognisable in a foreign country. As far as India and Britain are concerned, they are parties to international conventions. Therefore, the petitioner has to secure sponsorship letter from the competent authorities in the United Kingdom. On production of such sponsoring letter, the Indian Authorities will be in a position to issue No Objection Certificate to take the children to United Kingdom. In the absence of producing valid document from the authorities of the United Kingdom, the Government of India may not be in a position to issue No objection Certificate.

7. Child Rights and its protection are of paramount importance. Presently rights of the children are globally recognised and well established. Therefore, merely by adopting a children in one country, the said children cannot be taken to a foreign country without No objection Certificate, which is to be issued based on a treaty or international convention, wherein the countries are signatories.

8. In the present case, the petitioner has to secure sponsorship letter from the competent authorities in the United Kingdom and on production of



valid No Objection Certificate, the 1st respondent may consider the same on merits and by following due process. Therefore, the decision taken by the 1st respondent cannot be said to be infirm but in consonance with the established principles.

9. With the above clarification, this Writ Petition stands dismissed. No costs.

17.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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To

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S.M.SUBRAMANIAM, J.

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