



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

234

CWP-10454-2023
Date of Decision: 12.12.2024

AMIT KUMAR AND ANOTHER

... Petitioners

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

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

Present: Mr. Kushagra Beniwal, Advocate for the petitioners.
Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Shweta Nahata, Sr. Panel Counsel for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing the respondents to consider the application dated 15.02.2020 of the petitioners for the adoption of normal child in view of the Adoption Regulations, 2017 instead of the subsequent Regulations notified by the Ministry of Women and Child Development, Government of India on 23.09.2022.

The learned counsel for the petitioner has been confronted with the following questions:

- (i) Whether mere submission of an application would amount to creation of right in favour of an applicant to take a child in adoption; and
- (ii) Whether the Regulations issued in supersession of erstwhile Regulations, without any saving clause, can be said to have no impact on the application that had been submitted prior to the issuance of the said Regulations in terms of governing the adoptions.

Counsel for the petitioners fairly submits that he is not in a position to contest this case as regards a pre-existing right vested in him to be given a child in adoption.

Counsel for the respondents-U.O.I. further refers to the judgment dated 16.02.2024 passed by the Hon'ble Delhi High Court in Writ Petition (Civil) No.3901/2023 titled as 'Debarati Nandee Versus Union of India and another', wherein it has been held that no pre-existing right accrues in favour of an applicant solely on the basis of submission of an application to take/give a child in adoption.

This Court thus finds further support from the judgment of the Hon'ble Delhi High Court to hold that in the absence of any pre-existing right to take/give a child in adoption, it would not lie with an applicant to determine as to under what Regulations his application ought to be considered for taking/giving a child in adoption. The applicability of the Regulations has to be seen in the context when claim of an applicant comes for consideration before the Competent Authority for giving/taking a child in adoption.

Faced with the above, learned counsel for the petitioners does not press the instant petition at this stage so as to take appropriate steps for pursuing their application before the Competent Authority in accordance with law.

Disposed of as not pressed at this stage with the liberty as aforesaid.

DECEMBER 12, 2024.
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No