



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

CWP-8108-2026 (O&M)

Date of Decision: 27.05.2026

Naira Sharma and Others

...Petitioners

Versus

Union of India and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Savreet Singh Brar, Advocate
for the petitioners.

Mr. Dheeraj Jain, Senior Advocate/Senior Panel Counsel
with Ms. Amrita Singh, Advocate
for the respondent-UOI.

Mr. Vikas Arora, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking direction to respondent to issue No Objection Certificate ('NOC') to enable relocation of the adopted minor child to Canada with her adoptive parents.

2. Petitioners No.2 & 3 are permanent residents of Canada. They being issueless, adopted petitioner No.1 on 08.12.2023 as per provisions of Hindu Adoption and Maintenance Act, 1956 (for short 'HAMA'). Respondent Nos.6 & 7 are biological parents of petitioner No.1. They are also relatives of petitioner Nos.2 & 3. The petitioners initiated the process of relocation of their adopted child. The Canadian Authorities have rejected their application on the ground that they have suspended recognition of adoptions made as per HAMA unless adoption

is recognized under Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'JJ Act') and Adoption Regulations framed by Central Adoption Resource Authority (for short 'CARA'). They submitted representation dated 18.06.2025 to the respondents seeking issuance of verification certificate as per Adoption Regulations, 2022. They again submitted representation dated 30.07.2025 before CARA but to no avail.

3. A perusal of Section 1(4) of JJ Act transpires that Act is applicable to 'children in need of care and protection' and 'children in conflict with law'. Expressions '*child*', '*child in conflict with law*' and '*child in need of care and protection*' have been duly defined under Section 2. Section 2(12) defines expression '*child*', 2(13) defines '*child in conflict with law*' and Section 2(14) defines '*child in need of care and protection*'. For the ready reference, Sections 1(4), 2(12), 2(13) and 2(14) are reproduced as below:

“1(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including —

- (i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law;*
- (ii) procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection.*

2(12) “child” means a person who has not completed eighteen years of age;

2(13) *“child in conflict with law” means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;*

2(14) *“child in need of care and protection” means a child—*

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or*
- (ii) who is found working in contravention of the provisions of this Act or labour laws for the time being in force or is found begging, or living on the street; or*
- (iii) who resides with a person (whether a guardian of the child or not) and such person—*
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or*
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or*
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or*
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or*
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or*

- (vi) *who does not have parents and no one is willing to take care of, and protect or who is abandoned or surrendered; or*
- (vii) *who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or*
- (viii) *who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or*
- (ix) *who is found vulnerable and has been or is being or is likely to be inducted into drug abuse or trafficking; or*
- (x) *who is being or is likely to be abused for unconscionable gains; or*
- (xi) *who is victim of or affected by any armed conflict, civil unrest or natural calamity; or*
- (xii) *who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage”*

4. Section 56 deals with adoption of children. Sub-section (1) provides that adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children. Sub-section (2) deals with adoption among relatives. Sub-section (3) provides that nothing contained in the Act shall apply to adoption of children made under HAMA. Sub-section (4) provides that all inter-country adoptions shall be done as per provisions of the Act and regulation framed by Authority. Sub-section (5) provides that no child can be taken out of country without valid order from the District Magistrate. For the ready reference, Section 56 is reproduced as below:

“56. Adoption

(1) Adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children, as per the provisions of this Act, the rules made thereunder and the adoption regulations framed by the Authority.

(2) Adoption of a child from a relative by another relative, irrespective of their religion, can be made as per the provisions of this Act and the adoption regulations framed by the Authority.

(3) Nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956.

(4) All inter-country adoptions shall be done only as per the provisions of this Act and the adoption regulations framed by the Authority.

(5) Any person, who takes or sends a child to a foreign country or takes part in any arrangement for transferring the care and custody of a child to another person in a foreign country without a valid order from the District Magistrate, shall be punishable as per the provisions of section 80.”

5. Mr. Dheeraj Jain, Senior Advocate for the respondent-UIO submits that there was lack of clarity with respect to applicability of Hague convention and JJ Act to inter-country adoption of children who have been adopted as per provisions of HAMA. The matter came up for consideration before Delhi High Court in ‘**R.K. and Another Versus Central Adoption Resource Authority**’, 2021 SCC OnLine Del 4246. Delhi High Court observed that whenever any inter-country adoption takes place and there is compliance of provisions of HAMA, however, NOC is required for any purpose. The NOC shall be granted upon an

application filed before CARA. Special Committee would be appointed to verify the particulars. In the judgment, particulars to be verified are notified which are same as laid down under Articles 5 and 17 of Hague Convention. The Government of India to resolve the problem issued Adoption Regulations, 2022. The Regulations came into force w.e.f. 23.09.2022. In the Regulations, particularly Regulations 68, 69 and 70 procedure for inter-country adoption by Non-Resident Indians or overseas citizen of India has been prescribed. As per Regulation 68, the adopted parents who are habitually residing abroad despite adopting child as per HAMA are required to obtain letter from Competent Authority of foreign country. In the present case, the adopted parents are residing in Canada. They have adopted child in accordance with the provisions of HAMA. The Authorities in India particularly CARA is ready to process petitioners' application provided sponsorship letter is received from Competent Authority in Canada.

6. Learned counsel representing the petitioners at the first instance pleaded that conjoint reading of Sections 1(4) and 56(3) of JJ Act reveals that JJ Act is inapplicable to a child who is staying with his parents and has been adopted as per provisions of HAMA, however, on being confronted with Chapter VIII of Adoption Regulations, 2022 particularly Regulation 68 submits that petitioners' would approach Competent Authority at Canada and seek sponsorship letter. He further submits that CARA may be directed to expedite petitioners' application the moment letter is received from Canadian Authority.

7. Learned Senior counsel for the respondent-UOI assures the Court that the moment letter as contemplated under Regulation 68 is

received from Authority at Canada and report from District Magistrate, Patiala, the petitioners’ application would be processed expeditiously and preferably within four weeks.

8. In the wake of statement of both sides, the petition stands *disposed of*. It is made clear that if the Authorities at India find it necessary to interact with adopted parents, they may interact with them through video conferencing instead of compelling them to be physically present in India.

9. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

27.05.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No