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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 279/2019 & CM APPL. 40751/2021**

RAJWINDER KAUR & ANR Petitioners
Through: Mr. Anubhav Yadav, Advocate.
versus

CENTRAL ADOPTION RESOURCE AUTHORITY Respondent
Through: Ms. Biji Rajesh, Mr. Shreesh Chadha,
Advocates with Mr. Samuel
Vargheese P., Add. Director (CARA)
(M-9999285585)
Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Ms. Srirupa Nag &
Ms. Taha Yasin, Advocates for UOI
(M-9811700872).
Mr. Atul T.N., Amicus Curiae.

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WITH

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W.P.(C) 10064/2019 & CM APPL. 40851/2021

BABY HARISHIKHA ATRE MINOR THROUGH: SHEFALI
KULSHRESTHA Petitioner
Through: Mr. Zeeshan Khan, Advocate.
versus

UNION OF INDIA & ORS Respondents
Through: Ms. Biji Rajesh, Mr. Shreesh Chadha,
Advocates with Mr. Samuel
Vargheese P., Add. Director (CARA)
Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Ms. Srirupa Nag &
Ms. Taha Yasin, Advocates for UOI.
Mr. Atul T.N., Amicus Curiae.

23

AND

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W.P.(C) 11168/2020 & CM APPL. 40499/2021

JAGDISH SINGH SHARY Petitioner
Through: Mr. Vishwendra Verma, Advocate.

versus

CENTRAL ADOPTION RESOURCE AUTHORITY Respondent

Through: Ms. Biji Rajesh, Mr. Shreesh Chadha,
Advocates with Mr. Samuel
Vargheese P., Add. Director (CARA)
Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Ms. Srirupa Nag &
Ms. Taha Yasin, Advocates for UOI.
Mr. Atul T.N., Amicus Curiae.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **20.12.2021**

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. Vide judgement dated 31st August, 2021, the following directions were issued in this matter:

“96. In terms of the directions issued above;

a. The Secretary, Ministry of Women and Child Development, Government of India shall file a report before this Court as to the manner and mode of creating a permanent mechanism to deal with inter-country adoptions under HAMA, both direct and indirect and place the said report before this Court within a period of two months.

b. There are several errors on the website of CARA in respect of HAMA adoptions. CARA shall carry out corrections in its website and place a report before this Court within eight weeks;

c. CARA shall also frame guidelines for the processing of NOCs for inter-country adoptions under HAMA and make available forms for this purpose on the portal. Let the draft guidelines and the timelines for activating the portal be placed on record by means of a status report within two months. Details of the special Committee constituted to

deal with HAMA adoptions shall also be specified in the report;

d. A status report in respect of each of the writ petitions and the processing of grant of NOCs be also filed at least one week before the next date of hearing.”

3. On the previous date being 22nd November, 2021, the Central Adoption Resource Authority/Respondent (*hereinafter*, “CARA”) had made submissions on the status and stage of adoptions of the Petitioners in these writ petitions, and on steps taken by CARA towards creation of a permanent mechanism to deal with inter-country adoptions and issuance of NOCs. Accordingly, this Court had also taken note of various issues faced in such adoptions, such as obtention of verifications from DMs/SDMs in terms of Schedule XXIII and XXXIV of the Adoption (Amendment) Regulations, 2021 (*hereinafter* “2021 Adoption Regulations”), and the problems in coordination between CARA, foreign authorities, and biological and adoptive parents. Therefore, the Court had directed CARA to consider implementing certain steps to provide assistance and enable ease of obtaining NOCs and certifications for inter-country adoptions.

4. Further to this last order, the following compliances have been reported by CARA:

- (i) **Creation of a database of all SDMs/District Magistrates as also the State Adoption Resource Agencies and District Child Protection Unit who will need to be contacted for the purpose of verification and issuance of certificates.**

As per CARA, the said database has been created. The Court has perused the database by accessing it online. Broadly, the database is available. However, in respect of some of the states, only the mobile number of the concerned officer is mentioned.

CARA may obtain the landline numbers of the concerned officers and update the same.

(ii) **Publication of such a database on CARA's website.**

Publication of such database has been done on the website. The same may be given some publicity in relevant media including on the Home page of website, at the DMs/SDM offices, offices of various NGOs dealing with adoption etc.,

(iii) **Creation of a help desk at CARA which shall be available both physically and online. The help desk/helpline should have a 24-hour helpline, considering the time differences in different jurisdictions. This would enable adoptive parents to contact CARA as per their convenience. The feasibility of the same shall be reviewed by CARA and shall be submitted before this Court by way of a status report.**

A toll-free helpline number 1800-11-1311 is published on CARA's website which is stated to be available from 9:00 a.m. to 5:30 p.m. However, when the Court Master dialled the said number, the number was continuously busy. It is, therefore, clear that CARA needs to look into this matter and file a status report concerning improvements in this regard. It is also submitted by CARA that a new grievance handling system would be operational soon. Accordingly, let the status report be placed on record on the next date as to what is the status and implementation of the same.

(iv) **CARA shall also consider permitting advocates/lawyers to appear as authorized representatives to coordinate and facilitate the various formalities that are required to be undertaken.**

CARA has stated in its compliance affidavit that henceforth, “lawyers and advocates are permitted to appear as authorized representatives to coordinate and facilitate the various formalities”.

- (v) **Mechanism to be created to enable biological or adoptive parents to appear even virtually or be available telephonically, whenever CARA requires to contact them or interact with them.**

CARA’s affidavit states that if virtual meetings are required by either biological or adoptive parents, the same shall be arranged.

- (vi) **All communications with foreign authorities or District Magistrates or any other parties made by CARA shall also be copied by an e-mail to the party concerned as also their authorized representatives so that the procedure being followed and the progress of the application is within their knowledge as well. This would also enable the parties concerned to follow up with the concerned foreign authority or with the District Magistrate for issuance of the certification.**

CARA’s affidavit states that copies of all the e-mail communications are being marked to all the concerned persons including the parties. In addition, considering the submissions made today, it is directed that the Indian Consulate/High Commission in the concerned country be also marked copies of the emails, as some of the countries’ central agencies request for translated copies of the communications sent by CARA. In case such requests are received, in order to facilitate the

issuance of any translation or establishing contact with the central agencies of the foreign country in the local language, marking of emails to the concerned Indian Consulate would enable parties to seek the assistance of the said Consulate. If any assistance is sought, the officials in the concerned Indian Consulate or High Commission shall render all necessary help and assistance to the parties concerned.

5. Insofar as the pending cases of inter-country adoptions before CARA are concerned, a chart which has been filed by CARA shows that there are 24 pending cases. However, Ms. Biji, Id. Counsel, submits today that there are a total of 28 pending cases. CARA would proceed as per the new guidelines and the 2021 Adoption Regulations, in all these matters and an updated status report shall be filed before the next date.

6. Id. counsel also points out that in one of the cases, communication has been received from the Director, Ministry of Children, Community and Social Services, Canada, seeking a home study report in terms of the Articles 15 and 16 of the Convention on Protection of Children and Co-Operation in respect of Intercountry Adoption, 1993 (*hereinafter "Hague Convention"*). Since the adoptions under the Hindu Adoptions and Maintenance Act, 1956, are now being processed under the 2021 Adoption Regulations, and considering that the adopted child is in India, upon obtaining the District Magistrate's certification/verification, CARA may prepare the home study report with the help of the District Child Protection Officer, as also the adoptive/biological parents in order to enable the submission of the same to the concerned central agency, in the appropriate country.

7. Mr. Atul Nagarajan, Id. *Amicus Curiae* has submitted his suggestions today. The same would be considered on the next date of hearing. Let an updated status report be filed at least one week, before the next date of hearing.
8. Copies of CARA's submissions to the Court, may be exchanged with the counsels for the parties, as also with the Id. *Amicus Curiae*.
9. In W.P.(C) 11168/2020, it is submitted by the Id. Counsel for CARA that despite specific directions to appear before CARA to submit requisite documents and obtain the NOC, the Petitioner has not appeared before CARA.
10. List all these petitions on 17th February, 2022.
11. These shall be treated as part heard matters.

PRATHIBA M. SINGH, J.

DECEMBER 20, 2021/Aman/MS