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2026:DHC:9354

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

% *Judgment reserved on: 30.09.2026*
Judgment pronounced on: 15.10.2026
Judgment uploaded on: 16.10.2026

CNR No. DLHC010154742026

\+ **W.P.(C) 4937/2026 & CM APPL. 24285/2026**

[redacted] .....Petitioner

Through: Ms. Tara Narula, Mr. Harshvardhan Jain and Ms. Gauri Ramachandran, Advocates.

versus

UNION OF INDIA AND ANR .....Respondents

Through: Mr. Rajesh Kumar, SPC for UOI with Mr. Yash Narain, Ms. Pragya Nath, Mr. Sumit Bhargava and Mr. Nimit Kumar, Advocates for respondent/CARA.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

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DR. SWARANA KANTA SHARMA, J.

1. The present writ petition has been preferred by the petitioner, a prospective adoptive parent residing in Singapore, who assails the action of respondent no. 2, the Central Adoption Resource Authority [hereafter '**CARA**'], whereby his application for inter-country adoption was reflected on the Designated Portal as "*Application Rejected – Withdrawn*" on 30.03.2026, resulting in the withdrawal of the referral of a female child 'Baby K', which had been made in his favour and accepted by him on 23.01.2026. The petitioner has, therefore, approached this Court seeking following reliefs:

> "i. Issue a writ of Mandamus or any other appropriate writ, Order or direction to Respondent No. 2 to restore the petitioner' application dated 21.12.2020 on the portal and reinstate the referral of the Baby K to the petitioner; and
>
> ii. Issue a writ of Mandamus or any other appropriate writ, Order or direction to Respondent No. 2 to issue the No Objection Certificate forthwith; or/and
>
> iii. Pass any such further Order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case and / or in the interest of justice."

FACTUAL BACKGROUND

2. Briefly stated, the facts of the case, as discernible from the record, are that the petitioner and his spouse were born and brought

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up in India and have, over the years, settled in Singapore, where they presently reside. They got married in the year 2015 and were blessed with their first son in the year 2018. On 21.12.2020, the petitioner and his spouse registered themselves as Prospective Adoptive Parents [hereafter '**PAPs**'] for inter-country adoption on the then Designated Portal, i.e. the Child Adoption Resource Information and Guidance System [hereafter '**CARINGS**'], under the Non-Resident Indian category, through the High Commission of India in Singapore. Since Singapore is not a signatory to the Hague Adoption Convention, 1993, the Indian Diplomatic Mission in Singapore [hereafter '**IDM, Singapore**'] was to facilitate their adoption process, including the conduct and uploading of their Home Study Report [hereafter '**HSR**']. At the time of registration, the petitioner and his spouse had one biological child, and their HSR, prepared after a home visit on 17.12.2020, recorded their preference for adoption of a healthy girl child in the age group of 0 to 2 years.

3. On 17.03.2022, the petitioner and his spouse were blessed with their second biological son. Thereafter, on 23.09.2022, the Adoption Regulations, 2022 [hereafter '**2022 Regulations**'] came into force, superseding the Adoption Regulations, 2017 [hereafter '**2017 Regulations**']. Regulation 5(7) of the 2022 Regulations, in a departure from Regulation 5(8) of the 2017 Regulations which had placed the restriction upon couples with three or more children, provided that couples with two or more children shall only be

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considered for special needs children and hard to place children, unless they are relatives or step-children.

4. The HSR of the petitioner, which had been prepared in December 2020, was valid for a period of three years in terms of Regulation 5(8) of the 2022 Regulations, and thus expired in December 2023. It is not in dispute that the petitioner did not seek revalidation of the same till the year 2025. The revalidated HSR of the petitioner was prepared after a home visit on 06.09.2025 by a social worker engaged through the IDM, Singapore, was countersigned by the First Secretary, High Commission of India, Singapore on 23.09.2025, and was uploaded on the portal on 14.10.2025. The relevant portion of the said revalidated HSR, which has been placed on record by CARA as Annexure R-2, reads as under:

> "I visited the aforementioned PAP on 06/09/2025. The PAP's have been wanting to adopt a child and are looking forward to welcome a child. They are happy to adopt a single girl child of age 2-4. **The couple have 2 biological sons of age 7 & 3.** The children are also excited to have another sibling. Their preference in the system remains the same Single Girl, 2-4, All of India. Presently they are residing in a fully furnished 5 BHK house…"
>
> (Emphasis supplied)

5. The case of the petitioner is that the revalidated HSR was not reflected on the portal on account of technical glitches, and despite repeated e-mails to the helpdesk of CARA, no response was received. The petitioner, therefore, raised a grievance on 08.12.2025 on the

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Centralised Public Grievance Redress and Monitoring System, in response to which CARA, on 02.01.2026, informed him as under:

> "…it is informed that the matter has been examined. The re-validation of your application is approved and under active consideration for child referral. Updated information shall be relayed to you accordingly."

6. In the meantime, Baby K, who was born on 03.11.2025 and was abandoned at birth, had been admitted in a Government Specialised Adoption Agency [hereafter '**SAA**'] in the State of Rajasthan on 03.12.2025, after having remained in a Government hospital from the date of her birth till 03.12.2025. Her Medical Examination Report dated 16.01.2026 [hereafter '**MER**'] recorded her birth weight as 2.215 kg and a history of respiratory distress syndrome with septicaemia at birth, and classified her health status as '*Normal*'.

7. On 22.01.2026, when the petitioner contacted the technical support team of CARA for updation of his profile, he was informed that a referral had already been generated in his favour on 21.01.2026. However, neither the petitioner nor the IDM, Singapore could view the said referral on the portal. On the grievance raised by the petitioner, the Assistant Director (Inter-Country Programme), CARA, *vide* e-mail dated 22.01.2026, informed him as under:

> "Your grievance has been taken up and forwarded to the technical team for resolution. Please wait. It will be resolved by today. But in rare case, if it is not resolved we will maintain your seniority and one referral will be managed."

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8. Upon the issue being escalated, the referral of Baby K was made visible to the petitioner. On 23.01.2026, the petitioner reserved the child, and the signed Child Study Report and MER were uploaded on the portal on the same day, as confirmed by the IDM, Singapore *vide* e-mail dated 23.01.2026.

9. It is the case of the petitioner that, thereafter, during February and March 2026, the petitioner and the IDM, Singapore, uploaded, and repeatedly re-submitted, the documents required for issuance of the No Objection Certificate [hereafter '**NOC**'], including the power of attorney, family photographs, birth certificates of both the biological children, the consent letter of the elder son and the new passport of the petitioner, since several of these documents were not visible to the concerned team of CARA on the portal. The grievances raised by the petitioner during this period elicited responses from CARA to the effect that – "*the NOC of the child is under active consideration for approval at multiple levels*" (13.02.2026 and 18.02.2026), that the case of NOC "*is under review… as per Adoption Regulation 2022*" (27.02.2026 and 06.03.2026), and that "*your request is currently under process for NOC*" (23.03.2026). In the meantime, the petitioner travelled to India and visited Baby K at the SAA on 27-28.02.2026, spent time with her, and also handed over the original documents to the SAA. The family of the petitioner also remained in touch with the child through video calls. It is further stated that on 23/24.03.2026, the SAA informed the petitioner that

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CARA had sought its address for dispatch of the physical copy of the NOC.

10. According to the petitioner, on the morning of 30.03.2026, the helpline of CARA informed him that the NOC would be issued on the same day or within one or two days. However, in the afternoon of the same day, the petitioner was unable to log into the portal, and the status of his application was shown as "*Application Rejected – Withdrawn*", though neither the petitioner nor the IDM, Singapore had ever withdrawn the application. The IDM, Singapore raised a grievance on the same day, since it could no longer view the application of the petitioner. On 30.03.2026, the petitioner also raised the issue in a live interactive session conducted by CARA on YouTube, in which, according to the petitioner, the Member Secretary and Chief Executive Officer of CARA observed that a rejection at such a late stage could only be a misunderstanding or a technical glitch. In response to the grievance of the petitioner dated 31.03.2026, CARA, on 01.04.2026, merely informed him that "*as per the PAP profile…, the application has currently been rejected*". On 01.04.2026 itself, the petitioner was informed by the SAA that Baby K had been moved to the queue of children legally free for adoption and had been referred to another family.

11. On 02.04.2026, the petitioner met the Member Secretary and Chief Executive Officer of CARA in person and, by an e-mail of the same date, requested that the referral of Baby K be kept on hold pending examination of his case. On the same date, i.e. 02.04.2026,

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CARA addressed the following communication to the IDM, Singapore which has been placed on record as Annexure R-3:

> "…The matter was reviewed at the level of issuance of No Objection Certificate (NOC). It was observed that at the time of registration on the portal dated 21.12.2020, the prospective adoptive parents had declared one biological child. However, as per the re-validation of their Home Study Report (HSR) dated 06/09/2025, it has been confirmed that currently they have two biological sons, aged 7 and 3 years.
>
> In view of two biological children of PAPs, attention is invited to the Regulation 5(7) of Adoption Regulations, 2022 which provided that prospective adoptive parents who already have two children are not eligible to adopt a normal child.
>
> As per the Regulation 5(7) of Adoption Regulations, couples with two or more children shall only be considered for special needs children as specified in clause (25) of regulation 2, and hard to place children as stated in clause (13) of regulation 2 unless they are relatives or step-children. Accordingly, the same may be informed to the PAPs and CARA may be apprised of the decision of PAPs regarding adoption of a child with special needs. **In view of above, the adoption case of child [Baby K]… for PAPs Mr. Sahil Gupta and Ms. Paulami Khan… was not considered on the portal.**
>
> This issues with the approval of Competent Authority."
>
> (Emphasis supplied)

12. The petitioner also approached various other authorities, including the National Human Rights Commission, which, on 10.04.2026, took cognizance of his complaint and called for an action taken report from the Secretary, Ministry of Women and Child Development.

13. Aggrieved by the aforesaid action of CARA, the petitioner filed the present writ petition on 12.04.2026.

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14. On 13.04.2026, notice was issued in the present petition, and it was directed that *status quo* be maintained with respect to the child, i.e. Baby K, who was referred to the petitioner on 23.01.2026. The said interim order has continued since then. CARA filed its counter affidavit, to which the petitioner filed his rejoinder. *Vide* order dated 06.07.2026, this Court had also directed that the medical examination of the child be conducted and the report thereof be placed before this Court. On 31.08.2026, a report in a sealed cover was handed over to this Court, which was taken on record. Both the parties have also placed on record their written submissions.

SUBMISSIONS BEFORE THE COURT

15. **The learned counsel appearing for the petitione**r argues that Sections 57 and 59 of the Juvenile Justice (Care and Protection of Children) Act, 2015 [hereafter '**JJ Act**'], read with Regulations 5, 16 and 17 of the 2022 Regulations, prescribe a structured procedure for inter-country adoption, under which the eligibility and suitability of PAPs are required to be scrutinised before a child is referred to them. It is submitted that Regulation 5 lays down the eligibility criteria for PAPs, including the specific restriction under sub-regulation (7) in respect of couples having two or more children, while Regulation 16(5) expressly mandates CARA to scrutinise the HSR and other documents of the PAPs to determine their eligibility and suitability. It is contended that only after such scrutiny does the process of referral, reservation and acceptance of a child commence, in accordance with the timelines prescribed under Regulations 16 and Schedule XIV of

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the 2022 Regulations. The learned counsel further submits that Regulation 17(1) mandates issuance of the NOC within ten days of receipt of the acceptance of the child and the requisite approval of the receiving country, as reflected in Schedule X. According to the petitioner, the statutory scheme places the responsibility of verifying eligibility upon CARA at the stage of scrutiny preceding referral, and once the HSR and accompanying documents have been examined and the referral accepted, CARA cannot reopen the question of eligibility at the NOC stage on the basis of facts which were already disclosed in the record and available to it. It is, therefore, argued that having approved the petitioner's revalidated HSR and referred Baby K to him, despite the HSR expressly recording that the petitioner and his spouse had two biological children, CARA could not subsequently withhold the NOC on the very same ground, particularly when Regulation 17 prescribes a specific timeline for its issuance.

16. It is further argued on behalf of the petitioner that Regulations 10 and 16 of the 2022 Regulations contemplate a detailed scrutiny of the PAPs, including their social, financial, medical and family background, before their eligibility and suitability are determined by CARA under Regulation 16(5). It is submitted that the HSR, once prepared after the requisite enquiry and uploaded on the Designated Portal, remains valid for a period of three years, subject to revalidation, and that the subsequent stages of referral, reservation and acceptance are structured to minimise uncertainty once a child

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has been matched with prospective adoptive parents. It is contended that while the Regulations permit further scrutiny in respect of matters requiring verification at subsequent stages, they do not authorise CARA to retrospectively nullify a referral, which has already been accepted, on the basis of facts concerning the eligibility of the PAPs that were fully disclosed in the HSR and were available to CARA at the time of scrutiny and revalidation. It is submitted that Regulation 44, read with the timelines prescribed under Schedule XIV of the 2022 Regulations, is intended to ensure certainty and stability in the adoption process, particularly after a child has been reserved and accepted.

17. The learned counsel for the petitioner further contends that Regulation 17(1), by employing the expression '*shall issue*', mandates CARA to issue the NOC within ten days of receipt of the acceptance of the child and the requisite documents. In the present case, the petitioner accepted the referral on 23.01.2026, whereas the adverse action was taken only on 30.03.2026, after a lapse of more than two months, without any reasoned order or exceptional circumstance being communicated to him during this period. It is further submitted that even on the morning of 30.03.2026, the helpline of CARA had assured the petitioner that the NOC was imminent and would be issued either that day or within the next one or two days, making the subsequent rejection of his application all the more arbitrary and inexplicable. According to the petitioner, the prescribed ten-day period is a substantive safeguard intended to

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prevent prolonged uncertainty for both the child and the prospective adoptive parents, and CARA's failure to adhere to the same, without adequate justification, cannot be countenanced.

18. It is further argued that the petitioner never concealed any fact from CARA, and that the petitioner, being conscious of the 2022 Regulations, had always been ready and willing to adopt a child with special needs. It is submitted that the petitioner did not seek revalidation of his HSR earlier since the family had a young child and was not ready at that stage, and that even thereafter, the petitioner had much lesser time on account of the technical glitches on the portal. It is contended that the petitioner is not, *per se*, barred from adoption, and that a reading of the definition of 'hard to place children' in Regulation 2(13) of the 2022 Regulations would show that even a child of the normal health category may fall within the said category; therefore, the petitioner is not barred from adopting every child of the normal health category. It is also contended that any attempt by CARA to argue that placement of Baby K with the petitioner would not be in conformity with the principle of placing a child in her own socio-cultural environment has no basis, since the petitioner and his spouse are of Indian origin.

19. The learned counsel argues that the constant communications from CARA to the effect that the application of the petitioner was approved and was under active consideration, and thereafter that the NOC was under process, cannot be brushed aside as technical glitches. Reference is made to paragraphs 25 to 27 of the counter

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affidavit filed by CARA to argue that CARA has itself admitted that the revalidated HSR was approved and the referral was generated in favour of the petitioner, and that the oversight, if any, was entirely that of CARA. It is submitted that the petitioner had accepted the referral within a few hours of its becoming visible; that the petitioner had personally travelled to India in February 2026 to meet the child; that the family, including the elder son of the petitioner, who has even written a letter for his sister, has continued to remain in touch with the child; that the family has moved to a five-bedroom house; and that the family has an annual income of about ₹3 crores and is capable of providing the best possible care to the child. It is therefore argued that the best interests of Baby K, which constitute the paramount consideration under Section 2(9) of the JJ Act, must guide the decision in the present case. The learned counsel further submits that Baby K, who had suffered from respiratory distress syndrome and septicaemia at birth, had been accepted by the petitioner and his spouse, who were ready to provide her with a stable and loving home. According to the petitioner, the abrupt withdrawal of the referral, attributable entirely to CARA's administrative and technical lapses, disrupted the prospect of a family placement and prolonged the child's stay in institutional care. It is, therefore, contended that the adoption process exists to secure a permanent family for a child, and that administrative errors ought not to defeat the child's welfare, particularly where a family has already come forward to welcome and care for her.

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20. It is further argued, with reference to the format of the Medical Examination Report provided in Schedule III of the 2022 Regulations, that children with a history of perinatal adverse events, such as respiratory distress syndrome and neonatal sepsis, have been categorised as 'high risk infants' who require detailed neuro developmental evaluation; that in case of a child below one year of age, the special needs, if any, are to be reported by a pediatrician; and that Baby K, being a premature child with a history of respiratory distress syndrome and septicaemia at birth, low hemoglobin and thalassaemia trait, cannot be said to be a 'normal' child in the true sense, and her status as a 'normal' or 'special needs' child is not fixed. It is submitted that the petitioner was, and even today remains, ready to take the child home, irrespective of her health status.

21. In the rejoinder and the written submissions, it has also been contended on behalf of the petitioner that the conduct of CARA gave rise to a legitimate expectation in favour of the petitioner, that CARA is estopped from resiling from its representations, and reliance in this regard is placed on several decisions of the Hon'ble Supreme Court. It is also argued that the status of the application of the petitioner was changed without any notice or opportunity of hearing, in violation of the principles of natural justice, and that the reason recorded, i.e. '*withdrawn*', was factually incorrect. It is lastly contended that the best interest of the child lies in continuity of the bond which had developed between her and the family of the petitioner, and correction of the error of CARA by restoring the referral would better

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serve her interest than placing her with another family. It is therefore prayed that the present petition be allowed.

22. **Conversely, the respondent no. 2/ CARA,** in its counter affidavit and written submissions placed on record, has contended that the HSR of the petitioner had expired in December 2023 in terms of Regulation 5(8) of the 2022 Regulations, and the petitioner sought revalidation only in the year 2025, nearly three years after the birth of his second child; therefore, his case was necessarily to be scrutinised on the basis of the facts and the regulations prevailing in the year 2025. It is stated that the Designated Portal was undergoing migration from CARINGS to the Mission Vatsalya Portal from September 2025, during which technical inconsistencies arose in the reflection of updated particulars; that the referral process is system-driven at the preliminary stage; and that at the stage of initial scrutiny, the fact that the petitioner had two biological children '*was inadvertently missed due to an oversight*', which led to the approval of the revalidated HSR and contributed to the referral of the child to the petitioner. It is contended that the adoption process is subject to multi-tier scrutiny, and the stage of issuance of NOC is a substantive and independent level of scrutiny, the very purpose of which is to identify and rectify any such inadvertent error or incorrect referral before final approval. It is stated that upon such scrutiny, the petitioner was found ineligible under Regulation 5(7), and thus, the NOC was rejected on 30.03.2026, which, as per the system architecture of the portal, resulted in automatic closure of the profile of the PAPs. It is stated

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that IDM, Singapore was informed of the decision on 02.04.2026, along with the reasons, and was also informed that the petitioner remained eligible for adoption of children with special needs and children in the immediate placement category. It is also stated that the profile of the petitioner has since been revived and updated, and is presently active for the categories permissible under the 2022 Regulations.

23. It has also been contended on behalf of CARA that the revalidated HSR recorded the preference of the petitioner for a girl child in the age group of 2 to 4 years, whereas the child referred was an infant, and the petitioner never pointed out this mismatch or his own ineligibility. It is further contended that infants of such tender age are not capable of forming stable attachments through limited virtual interactions or isolated meetings, and that the adoption framework is child-centric, intended to find a suitable family for a child and not to secure a particular child for PAPs.

24. The learned Senior Panel Counsel appearing for the respondents argues that the issue raised in the present petition is squarely covered by the decision of a Coordinate Bench of this Court in ***Debarati Nandee v. Union of India:*** *2024 SCC OnLine Del 1075* , wherein the challenge to the application of Regulation 5(7) of the 2022 Regulations to PAPs who had registered under the 2017 Regulations was rejected, and it was held that no vested right accrues to PAPs till the final adoption order is passed. Reliance is placed on paragraphs 2, 2.1, 25, 35, 42 and 43 of the said decision. It is

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submitted that though the said decision is under challenge, there is no stay of its operation, and the same is binding upon this Court in view of the principles of judicial discipline explained by the Hon'ble Supreme Court in ***Sundeep Kumar Bafna v. State of Maharashtra****: (2014) 16 SCC 623*.

25. It is further argued on behalf of CARA that the legislature, in its wisdom, has progressively tightened the restriction on adoption of a normal child by PAPs having biological children, i.e. from couples with more than four children under the framework of the year 2015, to couples with three or more children under the 2017 Regulations, and further to couples with two or more children under the 2022 Regulations, and that the legislative intent behind such reduction has to be given effect to. It is submitted that on one hand, there are PAPs who are ineligible to adopt a normal child, and on the other, there are about 27,000 PAPs who are waiting for a child, of whom about 87% are childless couples. It is argued that mere progression in the process of adoption, on account of an error, cannot confer any right upon the petitioner to adopt a particular child, contrary to the statutory mandate.

26. It is further contended by the learned counsel appearing for the respondents, that in terms of Regulation 3 of the 2022 Regulations, the best interest of the child is the paramount consideration, and preference is to be given to placement of the child with Indian citizens, in her own socio-cultural environment, as far as possible. It is also submitted that the cost of medical treatment in Singapore is

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very high, which is also a relevant consideration from the perspective of the child. It is contended that no right accrues in favour of PAPs unless and until the District Magistrate passes an order of adoption, since all the stages of the process are subject to statutory scrutiny, and the District Magistrate, being the final authority, can decline the adoption even at the final stage, if it is found that any statutory requirement has been overlooked by any authority. It is therefore prayed that the present petition be dismissed.

27. **In rebuttal**, the learned counsel for the petitioner submits that the PAPs to whom Baby K was subsequently referred also have a biological child, and that Baby K, prior to her referral to the petitioner, had been referred to and not accepted by other PAPs. It is also contended that the decision in ***Debarati Nandee*** (*supra*) was rendered in the context of PAPs who were at the pre-referral stage, whereas in the present case, the referral had already been made and accepted; therefore, the said decision has no application to the facts of the present case.

28. This Court has **heard** arguments addressed by the learned counsels appearing for either side and has perused the material available on record, including the written submissions filed by the parties.

ANALYSIS & FINDINGS

29. The present case brings before this Court a situation where the law, and the emotions of a family which had begun to see a child as

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its own, appear to pull in different directions. On one hand, there is a family which, after waiting for over five years, was referred a child by the statutory authority, which accepted her within hours, travelled across the seas to hold her, and began preparing for her homecoming. On the other hand, the statutory authority itself now relies on a statutory regulation which provides that couples with two or more children shall only be considered for adoption of 'special needs' or 'hard to place' children. This Court is thus conscious that the task before it is to determine whether the law, as it stands, permits the relief which the petitioner seeks, in the facts and circumstances of the case.

30. Having considered the rival contentions, the issues which arise for consideration before this Court can be set out as under:

(i) Whether the petitioner, admittedly having two biological children, was eligible to be considered for adoption of Baby K under the 2022 Regulations, and whether Baby K could be treated as a 'special needs child' or a 'hard to place child'?

(ii) Whether the referral of Baby K to the petitioner and its acceptance by him, read with the doctrine of legitimate expectation and the alleged lapses on the part of CARA, including its failure to scrutinise the petitioner's eligibility before referral and the delay in processing the NOC, confer any enforceable right upon the petitioner to seek a writ of mandamus directing CARA to issue the NOC or to restore the referral?

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(iii) Whether the best interest of the child warrants the grant of the reliefs sought?

(iv) Whether any guidelines/directions are required to be issued to CARA to address the administrative lapses identified in the present case?

A. The Statutory Framework

31. Before adverting to the issues, it would be apposite to take note of the statutory framework governing adoption in our country. Section 56(1) of the JJ Act provides that adoption shall be resorted to for ensuring the right to family for orphan, abandoned and surrendered children, as per the provisions of the Act, the rules made thereunder and the adoption regulations framed by the Authority.

32. Section 57 of the JJ Act, which lays down the eligibility of PAPs, reads as under:

> "**57**. Eligibility of prospective adoptive parents.—(1) The prospective adoptive parents shall be physically fit, financially sound, mentally alert and highly motivated to adopt a child for providing a good upbringing to him.
>
> (2) In case of a couple, the consent of both the spouses for the adoption shall be required.
>
> (3) A single or divorced person can also adopt, subject to fulfilment of the criteria and in accordance with the provisions of adoption regulations framed by the Authority.
>
> (4) A single male is not eligible to adopt a girl child.
>
> (5) **Any other criteria that may be specified in the adoption regulations framed by the Authority.**"
>
> (Emphasis supplied)

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33. Section 59 of the JJ Act, which deals with inter-country adoption of orphan, abandoned or surrendered children, insofar as relevant, provides as under:

> "**59**. Procedure for inter-country adoption of an orphan or abandoned or surrendered child.—(1) If an orphan or abandoned or surrendered child could not be placed with an Indian or non-resident Indian prospective adoptive parent despite the joint effort of the Specialised Adoption Agency and State Agency within sixty days from the date the child has been declared legally free for adoption, such child shall be free for inter-country adoption…
>
> (2) An eligible non-resident Indian or overseas citizen of India or persons of Indian origin shall be given priority in inter-country adoption of Indian children.
>
> xxx
>
> (4) The authorised foreign adoption agency, or Central Authority, or a concerned Government department, as the case may be, shall prepare the home study report of such prospective adoptive parents and upon finding them eligible, will sponsor their application to Authority for adoption of a child from India, **in the manner as provided in the adoption regulations framed by the Authority.**
>
> (5) On the receipt of the application of such prospective adoptive parents, the Authority shall examine and if it finds the applicants suitable, then, it will refer the application to one of the Specialised Adoption Agencies, where children legally free for adoption are available…"
>
> (Emphasis supplied)

34. Section 68 of the JJ Act, which lays down the functions of CARA, entrusts it, *inter alia*, with the functions of regulating inter-country adoptions and framing regulations on adoption and related matters.

35. In exercise of these powers, CARA has framed the 2022 Regulations, which came into force on 23.09.2022. Regulation 3 of

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the 2022 Regulations lays down the fundamental principles governing adoption, which include the following:

> "(a) the child's best interests shall be of paramount consideration, while processing any adoption placement;
>
> (b) preference shall be given to place the child in adoption with Indian citizens with due regard to the principle of placement of the child in their own socio-cultural environment, as far as possible;
>
> (c) all applications for adoptions shall be registered on the Designated Portal and confidentiality of the same shall be maintained by the Authority."

36. Regulation 5 of the 2022 Regulations prescribes the eligibility criteria for PAPs, and sub-regulations (7) and (8) thereof, which are relevant for the present case, read as under:

> "(7) **Couples with two or more children shall only be considered for special needs children as specified in clause (25) of regulation 2, and hard to place children as stated in clause (13) of regulation 2 unless they are relatives or step-children.**
>
> (8) The prospective adoptive parents have to revalidate their Home study report after a period of three years."
>
> (Emphasis supplied)

37. The expressions 'hard to place child' and 'special needs child' have been defined in clauses (13) and (25) of Regulation 2 of the 2022 Regulations in the following terms:

> "(13) 'hard to place child' refers to a child who has not been placed in adoption after going through the procedure as mentioned below:—
>
> (a) a normal child under the age of five who has not been placed in adoption with a resident Indian or non-resident Indian or Overseas Citizen of India Card holder prospective adoptive parents within sixty days after referral;

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> (b) or a child over the age of five or siblings who has not been placed in adoption with a resident Indian or non-resident Indian or Overseas Citizen of India Card holder prospective adoptive parents within thirty days after referral;
>
> xxxxxxxxx
>
> (25) 'special needs child' means a child who is suffering from any disability as provided in the Rights of Persons With Disabilities Act, 2016…"

38. Chapter IV of the 2022 Regulations governs the procedure for inter-country adoption. Regulation 16(5) provides that the HSR and other documents of the PAPs shall be scrutinised at the Authority in order to determine their eligibility and suitability. Regulation 45(2) provides that in case the non-resident Indian and the Overseas Citizen of India cardholder PAPs desire to initiate the process in a country which is not a signatory to the Hague Adoption Convention, the Indian Mission shall arrange to conduct the home study of such parents and facilitate the adoption process, including uploading of the HSR on the Designated Portal. Regulation 17(1), which governs issuance of NOC, reads as under:

> "(1) The Authority shall issue No Objection Certificate in favour of the proposed adoption in the format provided in the Schedule X, within ten days from the date of receipt of the acceptance of the child by the prospective adoptive parents and letter of approval or permission of the receiving country as per Article 5 and Article 17 of the Hague Adoption Convention, wherever applicable; and the No Objection Certificate shall be generated online through the Designated Portal."

39. Thereafter, the order of adoption is passed by the Court/District Magistrate, who, under Section 61 of the JJ Act, is

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required to satisfy himself, *inter alia*, that the adoption is for the welfare of the child, before issuing the adoption order.

B. Whether the Petitioner was Eligible to be Considered for Adoption of Baby K?

40. Admittedly, the petitioner and his spouse have two biological children, the younger of whom was born on 17.03.2022, i.e. prior to the coming into force of the 2022 Regulations on 23.09.2022. It is also not in dispute that the original HSR of the petitioner expired in December 2023, and the revalidation of the same was sought only in the year 2025, when the 2022 Regulations had already been in force for nearly three years. Thus, it is evident that at the time when the HSR of the petitioner was revalidated, as well as at the time when Baby K was referred to him in January 2026, the petitioner fell squarely within the ambit of Regulation 5(7) of the 2022 Regulations, and could only have been considered for adoption of a special needs child or a hard to place child.

41. The argument of the learned counsel for the petitioner that Section 59 of the JJ Act does not contain any restriction based on the number of biological children of the PAPs, and that Regulation 5 of the 2022 Regulations travels beyond Section 57 of the JJ Act, is not of any help to the petitioner. Section 57(5) of the JJ Act itself expressly contemplates that the eligibility of PAPs shall also be governed by '*any other criteria that may be specified in the adoption regulations framed by the Authority*'. Regulation 5(7) has been framed in exercise of this very power. The eligibility criteria laid

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down in Regulation 5 apply to all PAPs, whether resident Indians, non-resident Indians, Overseas Citizens of India or foreigners, and nothing in Chapter IV of the 2022 Regulations, which governs the procedure of inter-country adoption, carves out any exception in favour of non-resident Indian or Overseas Citizen of India PAPs. Section 59(4) of the JJ Act also makes it clear that the process of inter-country adoption is to be carried out '*in the manner as provided in the adoption regulations framed by the Authority*'. Similarly, the argument that Section 59 does not mention the requirement of a NOC is also unmerited, since CARA is the statutory authority entrusted with the function of regulating inter-country adoptions under Section 68 of the JJ Act, and the requirement of NOC has been prescribed by Regulation 17 of the 2022 Regulations framed under the JJ Act itself. Notably, the validity of Regulation 5(7) of the 2022 Regulations has not been challenged in the present petition.

42. The question as to whether Regulation 5(7) of the 2022 Regulations would apply even to those PAPs who had registered themselves prior to the coming into force of the 2022 Regulations is also no longer *res integra*, and has been answered by a Coordinate Bench of this Court in ***Debarati Nandee v. Union of India:*** *2024 SCC OnLine Del 1075*. In the said case, the petitioners, who had two biological children and had registered as PAPs under the 2017 Regulations, had assailed the decision of CARA to apply Regulation 5(7) of the 2022 Regulations to pending applications. Rejecting the challenge, the Coordinate Bench held that the change was only in the

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eligibility criteria, that no vested right of PAPs had been taken away, and that the policy behind Regulation 5(7) was intended to ensure that more children with special needs find families. The relevant observations are extracted hereunder:

> "33. The aforesaid regulation was amended in the year 2022 where the figure three has now been brought down to two. The policy of the legislature, therefore, is that the rush of a number of couples, who already have more than four children, who are available to adopt a child was felt in the year 2015. The said figure of four was brought down to three in the year 2017 and the same has now been brought down to two in the year 2022. **This indicates that there is no right amongst the PAPs to insist on the child whom they want to adopt till the adoption does not go through. The change is only in the eligibility criteria.**
>
> 34. ……In the case at hand, the introduction of the 2022 Regulations and the change in the position from Regulation 5(8) of 2017 to Regulation 5(7) of 2022 Regulations have not altered an already vested right in the PAPs. Regulation 5(8) of 2017 merely put a bar on consideration of PAPs with three or more children for the adoption of a normal child i.e. "shall not be considered for adoption" of a normal child. The right to be within the zone of consideration as a PAP continues and they may still choose to opt for a special needs child as specified in clause (25) of Regulation 2, and hard to place children as stated in clause (13) of Regulation 2, unless they are relatives or step-children.
>
> 35. Viewed in this light, it cannot be said that a pre-existing right has been taken away by virtue of Regulation 5(7) of 2022 Regulations. The pre 2022 position nowhere stipulated a positive right and a mandate thereof towards PAPs with less than three or more biological children towards being considered for the adoption of a "normal" category child since it merely provides for a negative right of non-consideration in certain cases, here being that of having three or more pre-existing biological children. **Any positive right as a corollary as asserted by the petitioners towards adoption would only accumulate and come into force after the District Magistrate passes a final adoption order under Section 58(3) read with Section 61 of the Juvenile Justice (Care and Protection of Children) Act, 2015.** The mere recognition as a

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suitable PAP which falls out of a procedure established within the statute and the regulations, cannot be stretched to entail a vested right to be placed for consideration towards the adoption of a normal child.

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47. Above and beyond all opposing contentions and considerations is the fundamental premise within which the framework of the Juvenile Justice (Care and Protection of Children) Act, 2015 and regulations thereunder operate which is the principle of welfare and safety of the child. **The best interest of the child and their right to be adopted into a suitable family triumphs all accruals of expectations of PAPs corollary to adoption of a child.** Due heed must be paid to the submissions of the counsel for the respondents behind the policy motivation of reducing the number the number of biological children of PAPs to exclude them from the adoption of a normal child from three to two. The long wait for prospective parents including those who are devoid of even one biological child must be seen in the backdrop of a grave mismatch between the number of normal children available for adoption and the number of PAPs in expectation of adopting a normal child. A balanced approach therefore ought to be welcomed which attempts to reduce the wait for parents with a single child or devoid of even that, in anticipation of adoption and the interests of the child while being matched with a family with lesser number of already existing biological children.

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49. This Court can take judicial notice of the fact that there are a number of childless couples and parents with one child, who are interested in adopting one more child, will adopt a normal child, whereas the chances of a specially abled child being adopted is remote. **This policy has been brought in only to ensure that more and more children with special needs get adopted.** That being the intention of the policy, the decision taken by Respondent 2 to make it applicable for pending applications cannot be said to be arbitrary."

(Emphasis supplied)

43. It has been informed by the learned counsel for the respondents that though the decision in ***Debarati Nandee*** (*supra*) has been

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assailed, there is no stay of its operation, and the same has not been disputed by the learned counsel for the petitioner.

44. Therefore, it is clear that in view of Regulation 5(7) of the 2022 Regulations, the petitioner could have been considered only for adoption of a special needs child or a hard to place child. The petitioner, however, has also raised a contention that Baby K was, in fact, not a 'normal' child, or at least that her status was not fixed, and that she could also fall within the category of hard to place children.

(i) Whether Baby K is a 'special needs child'

45. As taken note of in the preceding discussion, a 'special needs child' under Regulation 2(25) of the 2022 Regulations means a child who is suffering from any disability as provided in the Rights of Persons with Disabilities Act, 2016.

46. In the present case, the MER of Baby K, prepared on 16.01.2026, on the basis of which the referral was made and which was accepted by the petitioner, classified her health status as 'Normal'. Furthermore, pursuant to the order of this Court dated 06.07.2026, a fresh medical examination of the child was conducted in July 2026, when she was about eight months old. This Court notes that the fresh MER of Baby K also classifies her health status as 'Normal'. It *inter alia* records that there is no developmental delay, regression, or neurobehavioural or neurodevelopmental disorder; describes her developmental status as '*appropriate for age*'; records her general mood as '*happy, content*'; and records that she has passed the hearing screening (otoacoustic emissions) in both ears. Her

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haemoglobin is recorded at 11.10 g/dl, which is within the biological reference interval, and her thyroid profile shows a normal TSH value with a marginally elevated T3 value.

47. In the considered opinion of this Court, the classification of a child as 'normal' or as a child with 'special needs' is a matter which falls within the domain of medical experts, in accordance with the procedure prescribed under the 2022 Regulations, and this Court, in exercise of its writ jurisdiction, cannot substitute its own opinion for that of the medical experts, nor can it proceed on the basis of a mere possibility that the child may, at some future point of time, be found to have special needs.

48. Thus, on the material placed on record, Baby K cannot be treated as a 'special needs child' within the meaning of Regulation 2(25) of the 2022 Regulations.

(ii) Whether Baby K is a 'hard to place child'

49. Insofar as the contention that a normal child may also fall within the category of hard to place children is concerned, this Court notes that as per Regulation 2(13)(a) of the 2022 Regulations, a normal child under the age of five, who has not been placed in adoption with a resident Indian, non-resident Indian or Overseas Citizen of India cardholder PAP within sixty days after referral, is a hard to place child.

50. However, it is apparent that the said category, by its very definition and in the context of Regulation 5(7), is meant for those

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children who, despite having been referred, do not find a family within the stipulated period. The expression *"has not been placed in adoption… within sixty days after referral"* clearly refers to a child for whom, despite referral, no eligible PAPs come forward, and not to a child who has been reserved and accepted by PAPs, but whose adoption could not be completed on account of administrative delay or litigation.

51. In the present case, Baby K was referred to the petitioner on 21.01.2026 as a normal child, and was reserved by him within hours of the referral becoming visible. Thereafter, upon her profile being released into the referral pool on 01.04.2026, she was referred to, and reserved by, other eligible PAPs. Baby K, therefore, was not a child who could not find a family; rather, she has remained without one only on account of the delay in the processing of the NOC, and thereafter, on account of the pendency of the present proceedings. Thus, such period cannot be counted so as to bring Baby K within the category of hard to place children, and thereby render the petitioner eligible.

52. In view of the aforesaid, this Court is of the considered opinion that the petitioner, having two biological children, was not eligible to be considered for adoption of a child of the 'normal' category under the 2022 Regulations, and that Baby K, on the material placed on record, can neither be treated as a special needs child, nor as a hard to place child. The referral of Baby K to the petitioner was, therefore, contrary to Regulation 5(7) of the 2022 Regulations.

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C. Whether the Referral of Baby K, and its Acceptance by the Petitioner, Creates any Vested Right in his favour?

53. The principal argument of the learned counsel for the petitioner is that, in the present case, the referral had already been made by CARA after due scrutiny of all the documents, and the same had been accepted by the petitioner, and only the issuance of the NOC remained pending, which the CARA was obliged to issue and it could not have reopened the question of eligibility at this stage. It is also argued that the decision in ***Debarati Nandee*** (*supra*) was rendered in the context of PAPs who were at the pre-referral stage, which is distinguishable from the present case.

54. In this regard, this Court notes that while there is no dispute that the petitioners in case of ***Debarati Nandee*** (*supra*) were at the pre-referral stage, and the Coordinate Bench, in that context, observed that no expectation or vested right accrues at the pre-referral stage, the ratio of the said decision *however* is not confined to the pre-referral stage. The Coordinate Bench has, in clear terms, held that at any step or stage of the process – before the passing of the final order of adoption by the District Magistrate – a decision can be taken to disqualify a PAP, and that any positive right would accrue only after the final adoption order is passed. The relevant observations are as under:

> "24. … **The PAPs, therefore, have a right to adopt a child subject to the final adoption order of the DM under Section 61 of the Act.** The short question, therefore, that arises for consideration before this Court as to whether there is a right in the PAPs to decide on which child they want to adopt or as to whether the rules and regulations regarding the child available

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> for adoption can be altered by the legislation. **In the step by step procedure for adoption as envisaged under the Act and Regulations, at any step/stage a decision can be taken to disqualify a PAP.** Similarly, the parents can also decide to abandon the proposal for adoption. **It, therefore, cannot be said that at any point of time before the final order of adoption is passed by the District Magistrate that there is a right in a PAP to adopt a particular child.**
>
> 25. In light of this, this Court is of the opinion that there is no right at all to insist on the adoption of a particular child…
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> xxx
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> 42. Therefore, it is settled that the right to adopt cannot be raised to the status of a fundamental right within Article 21 nor can it be raised to a level granting PAPs the right to demand their choice of who to adopt. The adoption process in entirety operates on the premise of welfare of children and therefore the rights flowing within the adoption framework does not place the rights of the PAPs at the forefront. There can be no expectation at the pre-referral stage towards the adoption of a normal child, in the absence of any vested rights of legislative assurance towards consideration for the same.
>
> 43. It is settled law that "legitimate expectations" flow from the accrual of rights which follows consistent past practices. However, as elucidated above, since subsequent to the stage at which the petitioners are present, there may be multiple eventualities which may revoke their considerations towards adoption till the passage of the District Magistrate's order under Section 58(3) read with Section 61 of the Act, such a consistent past practice which causes the accrual of a right cannot be made out here."
>
> (Emphasis supplied)

55. Moreover, the question as to whether the referral of a child and its acceptance by PAPs creates any right which can override the statutory regime is also not *res integra*. The Hon'ble Supreme Court in ***Union of India v. Ankur Gupta:*** *(2019) 18 SCC 276*, which has also been noticed by the Coordinate Bench in ***Debarati Nandee*** (*supra*), was dealing with a case where a child had been offered to

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the PAPs, who had communicated their acceptance and had also communicated with the child; however, their case could not be processed under the procedure applicable to resident Indians, since one of them had acquired foreign citizenship during the process. While setting aside the decisions of this Court which had directed reconsideration of their case, the Hon'ble Supreme Court held that, notwithstanding the *bona fides* of the PAPs and the fact that they had accepted the child, the statutory procedure and the statutory regime could not be lost sight of. The relevant observations of the Supreme Court are set out hereunder:

> "13. ……It is true that Regulation 41 or any other regulation does not contemplate a situation when a resident Indian after acquiring the foreign citizenship submits a fresh registration, what is the consequence and value of its first registration. Even though the regulations are silent and do not provide for any mechanism or any answer to such fact situation, the natural consequences of acquiring foreign citizenship shall follow…
>
> 14. ……We are, however, not oblivious to the fact that Respondents 1 and 2 had been bona fide pursuing their applications for adoption, initially as resident Indians and thereafter even as overseas citizens of India. As per Section 57, both Respondents 1 and 2 are fully eligible and competent to adopt the child. **It was under the circumstances as noticed above that the child Shomya was offered to Respondents 1 and 2, who rightly communicated their acceptance and communicated with the child and are willing to take child in adoption and to take all care and provide good education to her. We have no doubt in the bona fide or the competence of Respondents 1 and 2 in their effort to take the child in adoption, but the statutory procedure and the statutory regime, which is prevalent as on date and is equally applicable to all aspirants i.e. Indian prospective adoptive parents and prospective adoptive parents for inter-country adoption, cannot be lost sight**. However, by virtue of Section 59(2), Respondents 1 and 2 can at best may be given priority in inter-country adoption, they being eligible

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> overseas citizens of India and further due to consequences of events and facts as noticed above."
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> (Emphasis supplied)

56. Thus, it is evident that even at the post-referral stage, where the child had been offered to and accepted by the PAPs, and where the PAPs had also communicated with the child, the Hon'ble Supreme Court held that the statutory regime must prevail, though it also observed that the PAPs therein could, at best, be given priority in the category for which they were eligible.

57. In the present case, however, it is not even the case that the ineligibility of the petitioner arose on account of any subsequent change during the process; *rather*, the petitioner was ineligible to be considered for a normal child on the very date on which his HSR was revalidated and the referral was made by CARA.

58. The learned counsel for the petitioner has also vehemently argued on the aspect of issuance of NOC, that under Regulations 10 and 16 of the 2022 Regulations, the HSR is prepared only after extensive enquiry, and Regulation 16(5) places responsibility on CARA to scrutinise the HSR and other documents to determine eligibility and suitability, and that after this scrutiny, referrals, reservation and acceptance occur within the ambit of these Regulations. It is accordingly argued that once acceptance is received from PAPs, Regulation 17 & Schedule XIV impose a strict 10 days limit on CARA to issue the NOC, which makes it clear that the process cannot be reopened at this stage. *On the other hand*, the learned counsel for the respondents has contended that issuance of

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NOC is not an empty formality and the stage for issuance of an NOC arises only after all documents prescribed under Schedule VI to the Adoption Regulations, 2022 (both pre-referral and post-referral), are duly furnished through the AFAA/ IDM and examined by CARA in accordance with the statutory framework.

59. Having given its thoughtful consideration to these rival submissions, this Court is of the view that the issuance of NOC under Regulation 17 of the 2022 Regulations cannot be termed as a mere formality, inasmuch as it is the stage at which CARA, as the central statutory authority regulating inter-country adoptions, accords its approval to the proposed adoption, which forms the basis of the subsequent proceedings before the District Magistrate. The fact that Regulation 17(1) uses the word 'shall' or prescribes a period of ten days for issuance of the NOC cannot mean that NOC is mandatorily to be granted, even if during this period, it comes to the notice of CARA that the petitioner is ineligible, or that upon expiry of the said period of ten days, the PAPs acquire a right to the NOC, irrespective of their eligibility. There can be no two views on the fact that the said timeline is meant to ensure expeditious completion of the process in the interest of the child, *however*, it cannot, in absence of any specific provision, confer eligibility upon PAPs who are otherwise statutorily ineligible to adopt a 'normal' child. The delay on the part of CARA, though worthy of strong disapproval of this Court, cannot result in a deemed NOC, which neither the JJ Act nor the 2022 Regulations contemplate.

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60. It is, however, relevant to note that CARA has explained that the delay and the erroneous referral occurred in the backdrop of the migration of the Designated Portal from CARINGS to the Mission Vatsalya Portal, during which certain technical inconsistencies arose, and that the petitioner's ineligibility was inadvertently overlooked at the stage of initial scrutiny. This Court also cannot lose sight of the fact that the said error came to light before the issuance of the NOC and, consequently, before the passing of any final order of adoption by the District Magistrate. Thus, notwithstanding the lapse on the part of CARA, the same was detected at a stage when the adoption process had not culminated in a final adoption order, and the statutory authority, therefore, cannot be precluded from correcting the error and ensuring compliance with the applicable statutory framework.

61. It is also well settled that a writ of mandamus can be issued only for enforcement of a legal right and a corresponding legal duty, and no mandamus can be issued directing a statutory authority to act in a manner contrary to the statute or the regulations governing it. A direction to CARA to issue the NOC in favour of the petitioner for adoption of a normal child, despite the bar contained in Regulation 5(7), would certainly amount to directing CARA to act in contravention of the 2022 Regulations.

62. The learned counsel for the petitioner has also argued that there was a legitimate expectation on the part of the petitioner, and has also relied on the principles of promissory estoppel. Insofar as

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this argument is concerned, it would be apposite to take note of the decision of the Hon'ble Supreme Court in ***Sivanandan C.T. v. High Court of Kerala:*** *(2024) 3 SCC 799*, on which reliance has been placed by the petitioner himself in the grounds of the petition, wherein the Supreme Court has explained the contours of the doctrine of legitimate expectation in the following words:

> "27. In Union of India v. Hindustan Development Corporation, this Court clarified the contours of the doctrine of legitimate expectation in the following terms: (i) legitimate expectation arises based on a representation or past conduct of a public authority; **(ii) legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular or natural sequence;** (iii) legitimate expectation provides locus standi to a claimant for judicial review; (iv) the doctrine is mostly confined to a right of a fair hearing before a decision and does not give scope to claim relief straightaway; (v) the public authority should justify the denial of a person's legitimate expectation by resorting to overriding public interest; and (vi) the Courts cannot interfere with the decision of an authority taken by way of policy or public interest unless such decision amounts to an abuse of power.
>
> xxx
>
> 49. ……In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish: (i) the legitimacy of the expectation and (ii) that the denial of the legitimate expectation led to the violation of Article 14."
>
> (Emphasis supplied)

63. In the present case, the expectation of the petitioner, though may be genuine from his perspective in view of the initial action on the part of CARA by referring Baby K despite she being a normal child, cannot wish away the fact that such referral was itself contrary to Regulation 5(7) of the 2022 Regulations, which was subsequently

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noticed by CARA prior to issuance of the NOC and any final order being passed by the District Magistrate.

64. In the opinion of this Court, an expectation which is founded upon some actions of the authority done in contravention of the statutory regulations, though later corrected before issuance of NOC and passing of final order, cannot be said to be founded on the sanction of law, and therefore, cannot be termed a 'legitimate' expectation in law. For the same reason, the plea of promissory estoppel is also of no avail to the petitioner, since it is settled that there can be no estoppel against a statute or statutory regulations, and a statutory authority cannot be compelled, on the basis of its representation or conduct, to do something which the law prohibits.

65. In view of the foregoing discussion, and also in view of the decision of the Coordinate Bench of this Court in ***Debarati Nandee*** (*supra*) and the Hon'ble Supreme Court in ***Ankur Gupta*** (*supra*), this Court is of the considered opinion that neither the referral of Baby K to the petitioner and its acceptance by him, nor the subsequent conduct of CARA in processing the application for issuance of the NOC, conferred any vested or enforceable right upon the petitioner to seek adoption of a child for whose adoption he was statutorily ineligible.

D. The Best Interests of the Child vis-à-vis the Petitioner's Claim for Adoption

66. This Court now turns to another aspect of the present case, i.e., the petitioner's argument that the family had begun to develop an

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emotional bond with Baby K and thus, the best interest of child has to be kept in consideration while deciding the present case. It is not in dispute that the petitioner travelled to India, met the child, and spent time with her, while his family, including his wife and other children, remained in touch with her through video calls. This Court is thus conscious of the distress which the petitioner and his family must have experienced when the referral was withdrawn by CARA, after they had begun preparing for arrival of the baby.

67. However, while the petitioner's interaction with Baby K and the attachment which his family may have developed with her cannot be disregarded, the question of the child's welfare has to be considered independently of the expectations of the prospective adoptive parents. The nature and extent of any bond between the PAPs and the baby, and its bearing on the child's welfare, will also have to be assessed in the context of the baby's age and the limited period of their interaction. Therefore, the emotions of the prospective adoptive parents, howsoever genuine, cannot be the sole basis for determining what would serve the best interests of the child.

68. The expression 'best interest of the child' has been defined in Section 2(9) of the JJ Act in following words:

> "**2**. In this Act, unless the context otherwise requires,—
>
> xxx
>
> (9) "best interest of child" means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development…"

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69. Section 3 of the JJ Act elevates this to a fundamental principle, requiring as under:

> "**3**. The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:—
>
> xxx
>
> (*iv*) *Principle of best interest:* All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential."

70. Further, Regulation 3(a) of the 2022 Regulations also provides as follows:

> "**3**. Fundamental principles governing adoption.— The following fundamental principles shall govern adoptions of children from India, namely:—
>
> (a) the child's best interests shall be of paramount consideration, while processing any adoption placement…"

71. In this Court's opinion, the meaning of scope of "best interests of the child" cannot be considered in isolation from the statutory framework which governs the adoption process. It is material to note that Regulation 5(7) of the 2022 Regulations embodies a policy decision, that PAPs having two or more biological children shall be considered only for the adoption of special-needs children or hard-to-place children, subject to the exceptions specified therein. This restriction operates alongside the broader objective of ensuring that children with special needs find adoptive families, and that the limited number of children in the 'normal' category are matched in accordance with the prescribed eligibility criteria. In this regard, it

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would also be pertinent to consider certain observations in ***Temple of Healing v. Union of India:*** *2023 SCC OnLine SC 1590*, wherein the Hon'ble Supreme Court, took note of the mismatch between the number of children legally available for adoption and the number of prospective adoptive parents awaiting referrals, which are extracted hereunder:

> "...despite these timelines, it is apparent that as a result of the mismatch between the number of children legally available for adoption and PAPs who are registered on the portal, the process of adoption is interminably long. By CARA's official estimate, at least three to four years elapse in the process..."

72. Therefore, it is of utmost importance that the adoption framework in the country operates in a fair, impartial and consistent manner, to ensure that the interests of children, and the legitimate expectations of all eligible prospective adoptive parents, are protected. Accordingly, the eligibility criteria cannot be treated as dispensable, only because its application in an individual case may cause hardship or distress to the prospective adoptive parents.

73. In the present case, the referral of Baby K to the petitioner was made contrary to Regulation 5(7) of the 2022 Regulations, as she was classified as a normal child and the petitioner, having two biological children, was not eligible to be considered for her adoption, and as already noticed, such error was attributable to the administrative lapse and oversight on the part of CARA. *Nevertheless*, in case the emotional bond, if any, arising from an erroneous referral made by CARA is held sufficient to override the prescribed eligibility criteria in the statutory regulations, it would open the door for every

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ineligible PAP to claim that a child had been referred to him or her on account of an error or oversight, and that the bond formed in the interregnum entitles him or her to adopt the child. Such an approach would not only defeat the aim of Regulation 5(7), but would also render the entire process of adoption uncertain and also unequal for thousands of PAPs who wait patiently for years in accordance with the Adoption Regulations.

74. Therefore, the principle of the child's best interests cannot be invoked to circumvent the very safeguards designed to secure suitable and lawful adoptive placements. Accordingly, this Court is of the opinion that, notwithstanding the circumstances in which the referral was withdrawn by CARA and the emotions of the petitioner and his family, the best interests of Baby K do not call for grant of the reliefs sought in the present petition, as one of the paramount considerations remains the child's placement in a suitable family – through a process that conforms to the governing statutory framework, i.e. as per the 2022 Regulations.

E. Administrative Lapses and the Need for Institutional Safeguards

75. The present case cannot be concluded only by holding that the petitioner was ineligible to adopt Baby K, since the facts of the case reveal several lapses in the functioning of CARA which, if left unaddressed, may cause similar distress to other PAPs and, more importantly, adversely affect children awaiting adoption. The petitioner, after waiting for over five years, was referred a child by

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CARA itself; was informed that the NOC was under process; and was given reason to believe that the NOC was nearing issuance. Yet, without any prior intimation, his application was reflected as "Application Rejected – Withdrawn", even though he had not withdrawn it. The child was thereafter referred to another family. The consequences of these lapses have not been confined to the petitioner and his family. The subsequent prospective adoptive parents, who reserved Baby K after she was released into the referral pool, have also been affected by the present litigation, despite no fault on their part. Above all, the child's placement in a family has also been delayed. In this Court's opinion, while the eligibility criteria, as set out in the statutes, has to be enforced uniformly to all, the process leading to a referral, its withdrawal and the issuance of an NOC must also be conducted with due care, transparency and sensitivity.

76. In these circumstances, this Court considers it appropriate to issue the following directions to CARA, to be implemented in coordination with the concerned Specialised Adoption Agencies, State Adoption Resource Agencies, authorised foreign adoption agencies and Indian Diplomatic Missions, wherever applicable:

(i) *Verification of eligibility before referral*: CARA must ensure that the eligibility of PAPs is verified and recorded at the stage of registration and revalidation of the HSR, as well as before the generation of a child referral. Such verification should specifically include the criteria prescribed under Regulation 5 of the 2022 Regulations, including Regulation

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5(7). The Designated Portal shall be configured, to the extent technically feasible, to prevent referrals that are inconsistent with the recorded eligibility of the prospective adoptive parents.

(ii) *Audit of profiles affected by portal migration*: In view of the technical inconsistencies arising during the migration of the Designated Portal, CARA must undertake an audit of profiles revalidated or updated during the migration period, so as to identify and rectify discrepancies between the information submitted by prospective adoptive parents and the particulars reflected on the portal.

(iii) *Time-bound processing of NOCs*: CARA must adhere to the timeline prescribed under Regulation 17(1) of the 2022 Regulations. Where deficiencies in the requisite documents prevent processing of the NOC, CARA must communicate the deficiencies in writing, preferably through a consolidated communication, to the concerned PAPs and the authorised agency or IDM, as applicable.

(iv) *Accuracy of portal status and grievance redressal*: CARA must ensure that the status of an application on the Designated Portal accurately reflects the action taken by it alongwith brief reasons. An application should not be marked as "withdrawn" unless the PAPs have specifically withdrawn it. Any rejection or closure of an application shall be communicated to the concerned parties with brief reasons. The

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grievance redressal mechanism shall provide specific responses, and assurances regarding the issuance of an NOC shall not be conveyed unless supported by the status of the matter before the competent authority.

(v) *Accountability and implementation:* CARA shall examine the lapses identified in the present case, take appropriate corrective measures and fix responsibility wherever necessitated. It shall also issue necessary instructions and standard operating procedures, and sensitise the officers and staff dealing with eligibility verification, referrals, NOCs and grievances, to ensure compliance with the above directions.

F. Decision

77. In view of the foregoing discussion, the interim order dated 13.04.2026 stands vacated. CARA shall, *forthwith*, take all necessary steps for the placement of Baby K in adoption, in accordance with law.

78. Before parting with this judgment, this Court also clarifies that nothing in this judgment shall be construed as a reflection upon the *bona fides* or the suitability of the petitioner and his spouse as adoptive parents. This Court can only hope that the petitioner and his family, who have shown remarkable warmth, will find their way to a child who needs them, perhaps a child with special needs, for whom the doors of a loving home are not opened as often as they should be. This Court also expects that CARA will treat this case as an occasion

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to introspect itself, since behind every profile on its portal, is a family waiting for a child, and a child waiting for a family.

79. With these observations and directions, the writ petition stands dismissed, alongwith pending application(s).

80. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 15, 2026/ns