



Guidelines to regulate matters relating to In-Country Adoption of Indian Children as per direction of Hon'ble Supreme Court of India.



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GOVERNMENT OF TRIPURA
EDUCATION DEPARTMENT
(Social Welfare and Social Education)

No. F. 85(64-2)-SWE/89(SC) Dated, Agartala, the 31st August, 1992.

NOTIFICATION

In pursuance of the order of the Hon'ble Supreme Court of India passed in Writ Petition (Criminal) No. 1171 of 1982, Laxmi Kanta Pandey-VS-Union of India, the Governor of Tripura has been pleased to frame guidelines as annexed to regulate matters relating to "In Country Adoption" of Indian Children in the State of Tripura subject to condition that adoption of Tribal orphans is not in conflict with customary tribal laws and usage. All concerned should ensure that the guidelines as framed shall be followed rigidly while In-Country adoption of Indian Children.

By order of the Governor,

P. R. Acharjee

Joint Secretary to the
Government of Tripura.

GOVERNMENT OF TRIPURA
EDUCATION DEPARTMENT
(Social Welfare and Social Education)

No. F. 85(64-2)-SWE/89(SC)

Subject :—Guidelines to regulate matters relating to In-Country Adoption of Indian Children as per direction of Hon'ble Supreme Court of India.

1. AIMS AND OBJECTS :

It is recognised that the welfare of Society, its growth and development depends to a great extent on the Health and well being of its children. The Constitution of India provides that the State shall direct its policy towards securing, inter alia that children are given facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and against moral and material abandonment. The National Policy for Children also recognises that the nation's children are a supremely important asset and their nurture and solicitude is the responsibility of the nation.

2. NEED FOR FAMILY SUPPORT FOR DEVELOPMENT OF CHILDREN :

It is an accepted fact that the balanced development of a child emotional, physical and intellectual can be best ensured within the family or where this is not possible, in familial surroundings. The responsibility for providing care and protection to children including those who are orphaned, abandoned, neglected and abused rests primarily with the family, the community and society at large. However, since many traditional institutions including the family structure are undergoing changes on account of urbanisation, industrialisation and the general process of development, family support to a child is not always available. It, therefore, becomes the responsibility of the community, of society and of the State to provide both institutional and non-institutional support to destitute children. Traditionally, our society has been providing support through charitable institutions and non-institutional activities like adoption, guardianship and foster care. Due to rapid changes in the social structure and other related factors, the number of children who need care, protection and rehabilitation is on the increase. It is, therefore, necessary not only to expand both institutional and non-institutional facilities for the nurture of such children, but also to regulate and monitor all programmes so as to ensure minimum standards in all child welfare activities. Among non-institutional modes, the interest of the child can best be served through adoption in a family. Further, it is also an accepted fact the child develops best in his or her own cultural and social milieu. Thus, placement of a child through adoption in an indigenous setting would be ideal for his or her growth and development. Inter-country adoption, i.e. adoption of Indian children by adoptive parents residing abroad, should be resorted to only if all efforts

to place the child with adoptive parents residing in India prove unsuccessful. Generally, in all matters concerning adoption, whether within the country or abroad, the welfare and interest of the child shall be paramount.

3. PRESENT STATUS OF THE STATE FOR WELFARE AND DEVELOPMENT OF CHILDREN :

The tribal society in Tripura has in built mechanism which provides for the protection of orphan child. Government has introduced foster care of orphan and destitute children belonging to the tribal families within their community environment under the Tripura Orphan Child Welfare Rules 1981, Further under the provision of Tripura Child Care and Welfare Rules 1980, tribal children who are orphan due to disturbance are taken care of.

The children of a broken Home is peculiar to big cities. In the State of Tripura there is no big city. The biggest is at the State capital at Agartala which have the highest population of about 1.32 lakhs only. Therefore, a number of children coming from broken Homes and those coming into conflict with law due to various factors of urbanisation is insignificant.

Government of Tripura have introduced number of schemes for growth, development and welfare of the children in accordance with the National Policy for children. Apart from community based programme the institutional services have been introduced to provide shelter, education, health services and rehabilitation to those children who are rendered destitute, orphan, neglected and exploited.

Government of Tripura has set up 22 Children Homes for destitute, orphans and neglected children. Of these, seven are managed financed by Social Welfare Department, Tripura, 11(eleven) are managed by Agartala Municipality and Notified Area Authorities, 4(four) are managed by registered Voluntary Organisations with 90% grant from the Government. These are sponsored under the Central Plan scheme and financed on equal ratio by the Central and State Government. The capacity of each Home is 50 children each.

With the change of socio-economic system of family vis-a-vis society either rural or urban there is more and more demand for institutional services for the children who are rendered orphan, destitute, neglected due to some reasons or other. But it appears that institutional services can not be encouraged to a greater extent since the emotional needs of the children are not fulfilled to the desired level for want of love and affection needed for the children. Besides management of institution and rehabilitation of inmates poses a big problem. So one of the alternative measure for assuring growth and development of the children who need special are and protection is adoption which would definitely cater to the need of the children under family system.

4. PROCEDURE FOR RECOGNITION OF ADOPTION AGENCY:—

Any Indian or State level Social/Child Welfare Agency desirous of obtaining recognition from the Government of Tripura for undertaking in-country adoption or local adoption work shall submit an application in the

prescribed form to the Directorate of Social Welfare and Social Education, Government of Tripura, Agartala (Annexure—A).

5. CONDITION FOR RECOGNITION:—

The voluntary agency which seeks recognition shall generally fulfil the following condition:—

- a) It shall be a society registered under the Societies Registration Act, or a Trust created under the Charitable Trust Act; or an organisation registered under an appropriate law.
- b) The organisation should run a child welfare institution such as orphanage/destitute children Home/Home for Abandoned and unclaimed babies. A certificate in this regard is to be produced by the organisation that the Home is recognised by the State Government.
- c) It shall have a duly constituted Executive Committee; the Chief Executive of the Organisation as well as the majority of members of the board/Executive Committee should be Indian Nationals.
- d) The organisation should have worked for the welfare of children during the last three years.
- e) The organisations as well as the Institutions handling in-country adoption should have following papers/documents and activities connected with the services of children:—
 - i) that adoption as an activity is being pursued by the organisation as a welfare measure in the interest of the child and not as a commercial activity;
 - ii) That proper records are being maintained for children admitted to the Homes;
 - iii) That the children admitted are provided with at least basic minimum standards for their care, protection, education and development.
 - iv) Children of all age groups should have schooling facilities.
 - v) The Institution must have adequate food and lodging, sports facilities for children of all age groups.
 - vi) That lists of persons interested in adopting a child or taking a child under guardianship are being maintained by the organisation regularly;
 - vii) That the accounts of the organisation are being maintained and audited annually without delay; and the auditor's reports are satisfactory; that any organisation which is in receipt of foreign funding is duly registered with the Government of Tripura.

- vi) That the organisation is receiving regular progress reports about the well being of children given in adoption and takes adequate follow-up measures to safeguard of agency.
- ix) That qualified staff having social work experience continue to be employed to take care of the children.

6. PROCEDURE FOR ADOPTION OF A CHILD FROM A RECOGNISED AGENCY :—

Under the Hindu adoption Act 1956 only a Hindu can adopt legally. Christians and Muslims are given children under the guardians and Wards Act 1890, which means that they can only take the child under guardianship and the parents are appointed guardians by the District Court with certain restrictions, that is for two years they are expected to submit quarterly reports to the agency in triplicate with details of health, progress, general well being and photographs of the child. Besides, at the descretion of the Judge a deposit in the name of the child annually is to be made till the child is 18 years old.

- ii) Couples residing in India are considered for taking adoption till 40 years of age in case of guardian of the family. Above 40 years in case of guardian of the family should not be allowed for taking adoption of a child. Children should also not to be placed with single parent i.e. widower.
- iii) When a family comes to the Institutions both husband and wife should be properly interviewed by the Board constituted by the concerning organisation in order to satisfy themselves that both are agreeable to the adoption. Other factors that are taken into account are reasons for adoption, whether the extended family have accepted the decision, their income, religion etc. After extensive assessment the family is to be registered by the organisation and a fee of Rs. 50/- is to be deposited by the couple.
- iv) Even though the family has been registered the agency reserves the right to approve/reject a family for adoption. The assessment/Home study enclosed as Annexure—A is to be submitted to the concerning organisation by a qualified Social Worker who is to be engaged by the organisation. The Social Worker will visit the family in their Home to assess stability in their relationship compatibility, environment (family and neighbours) and financial position and to verify authenticity of the documents submitted by the couple.
- v) The waiting period or a female child is approx six months/ one year and for a male child up to two years.

vi) The Home study thus prepared by the registered organization/agency should be sent to the Directorate of Social Welfare and Social Education, Government of Tripura, Agartala alongwith the following documents for consideration:—

- 1) Photographs of couple (Joint) 4 copies
- 2) Sterility Certificate from Government Hospital.
- 3) Medical fitness Certificate of couple from Medical Officer
- 4) Income Certificate from Revenue Officer of the State Government or employer in case of Government employee
- 5) Marriage Certificate (as per proforma enclosed) (Annexure—B)
- 6) Income tax return/assessment order
- 7) Bank account reference, if any
- 8) Statement regarding in-movable property

7. ELIGIBILITY OF A CHILD FOR ADOPTION :—

- a) Orphan children whose father and mother are not alive
- b) Abandoned unclaimed babies.

In all this cases children should be under age group 0-6 years and they are only eligible for adoption by Indian parents or widow.

In case of Destitute, Delinquent or neglected children the Institution itself should give adoption of those children till economic Rehabilitation. Orphan, Abandoned or Unclaimed children above 6 years of age should also give adoption by the Institution itself as in case of Destitute, Delinquent, and Neglected children.

8. ELIGIBILITY OF GUARDIANS FOR TAKING ADOPTION :—

- a) Any Indian parents or widow upto 40 years of age who have not child or single child are eligible for taking adoption.
- b) Recognised Institutions either certified by State or Central Government.

9. ADOPTION COMMITTEE :—

There should be two types of Adoption Review Committee, one at the State level and other at the organisational level.

a) STATE LEVEL COMMITTEE :—

- i) The State Government shall set up an Adoption Review Committee chaired by the Director of Social Welfare and Education. This Committee shall also include one representative from each of the recognised organisations engaged in the field of Adoption; Secretary, Tripura Council for Child Welfare;

A Child Specialist; an Advocate of Agartala Bar; a representative from Tripura University dealing with Child Psychology and 3 eminent Social Worker from 3 District. The State Government by notification may change the member of the committee time to time on any occasion.

ii) FUNCTION OF THE ADOPTION REVIEW COMMITTEE :—

- 1) The committee shall meet periodically to discuss Child Welfare measures, Specially ways and means to promote in country Adoption of children.
- 2) To Review and approve the proposals recommended by the organisational level committee.
- 3) To Review the inspection report of the responsible officer who will be engaged by the Director of Social Welfare and Social Education for inspection of the residence of Adoption seeking parents or widow before the case is approved.
- 4) The Committee shall call for information and data every quarter from all Agency engaged in Adoption in order to monitor and evaluate the functioning of these Agencies. (the data shall be called for in a proforma to be prescribed for this purpose)

b) ORGANISATIONAL LEVEL COMMITTEE :—

- i) Each recognised Institution/organisation shall set up an adoption Review Committee chaired by the President or Secretary of the institution/organisation. This Committee shall also include Sub-Divisional Officer of the concerning Sub-Division; appointed Social Worker of the respective organisation/institution; Chairman of the concerning Notified Area Authority or Agartala Municipality as the case may be and five eminent persons of the concerning District. The organisation/institution may by notification change the member of the committee time to time subject to approval of the Chairman of the State Level Committee.

ii) FUNCTION OF THE COMMITTEE :—

- 1) To review the proposal for adoption as sought for by the Indian parents or widow.
- 2) To review the report Home study and other documents as submitted by the appointed Social Worker of the organisation/institution.
- 3) To recommend the proposal for adoption to the State Level Committee.
- 4) Members should visit the residence of the Adoption seeking parents or widow before any recommendation is made.

- 5) The Committee shall meet periodically to discuss child welfare measures, especially ways and means to promote in country adoption of children.

10. ADOPTION CELL :

An Adoption Cell in the Directorate of Social Welfare and Social Education is to be created with the following posts to monitor the entire process for adoption of children :

- | | |
|----------------------------|---------------|
| 1. Senior Technical Asstt. | — 1 (one) No. |
| 2. J.D. Clerk. | — 1 (one) „ |
| 3. L.D. Clerk. | — 1 (one) „ |
| 4. Class—IV. | — 1 (one) „ |

11. REGISTRATION OF CHILDREN IN THE COURT :—

After handing over of children of the local guardian the Organisation should observe keenly the development of children in the family environment of the guardian. The appointed Social Worker of the Organisation should visit the family in every month and should furnish a monthly to the Organisational Level Review Committee. The concerning Review Committee should review 3 consecutive monthly reports and should take decision to the effect that the guardian is suitable for adoption of the child. Accordingly the Organisation and the guardian jointly shall appear before the District Court of the concerning District for registration under appropriate Law/Act.

12. EXCEPTION :—

In case of Government Institution the State Level Review Committee shall decide the process of adoption as per this guideline.

National level recognised organisation may transfer the children from the State to their other Institutions within this country subject to submission of monthly report to the Directorate of Social Welfare and Social Education till and after one year of giving adoption of children to the Indian parents residing in India.

ANNEXURE—A

APPLICATION FORM FOR RECOGNITION OF ADOPTION
AGENCY FOR IN-COUNTRY ADOPTION

1. Name of the Agency/Organisation/Institution
with full postal address for seeking recog-
nition as Adoption Agency
2. Date of incorporation
3. Brief history of the Organisation/Institu-
tion and description of its objects and
activities
4. Whether registered/recognised by the
State Government.
5. Whether the Organisation/Institution is
registered under Indian Registration Act
1860 (Act XXI of 1860) or corresponding
State Acts or it is managed by a Trust or
Body of Trustees (Details of registration with
the names of Act)
6. Whether the Organisation/Institution is
managed by the Central Govt./State
Govt. or local body
7. Whether the Organisation/Institution is
of All India Character. If so, give the
nature of its all India activities.
8. **FINANCIAL STATUS :**
 - a) Source of finance
 - b) Whether any Govt. grant is received
by the Organisation/Institution,
if so, give details
 - c) Whether the accounts of the Organisation/
Institution are audited every year? If
so, please submit statement of accounts and
audit report of last three years

Place :

Date :

Signature of the Chief Executive or
other Authorised Person of the Orga-
nisation/Institution. (with Official
stamp).

ANNEXURE--B

MARRIAGE CERTIFICATE OF ADOPTIVE PARENTS

The undersigned Mr. and Mrs. of ... P.O. P.S. Dist. who intend to take a child for adoption do hereby solemnly declare this ... day of ... that to the best our knowledge: That our marriage has been solemnised according to Hindu Religious rituals and have been leading our lives happily. That we intend to take in adoption a male/female child for which both of us have full consent.

Husband's signature.

Wife's signature,

Signed in the presence of:

- 1.
2.