

# [Provisions involved: facts in brief: the petitioner, lakshmi](https://assignbuster.com/provisions-involved-facts-in-brief-the-petitioner-lakshmi/)

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Provisionsinvolved: Factsin brief: The petitioner, Lakshmi Kant Pandey, a lawyer, wroteto the Supreme Court alleging contempt and malpractice with respect to socialassociations and private adoption agencies which facilitated the adoption ofIndian children to foreign parents. He noticed the long and dangerous journeysthese children made to foreign nations, alongside cases of indifference theyencountered from their adoptive parents bringing about impoverishment or sexualexploitation of the kids. The Court regarded his letter as a writ petition andthis came out to be a Public Interest Litigation.

Also, the application filed by the Indian Council forChild Welfare, was for obtaining a direction that when it is required to act asan investigating (scrutinising) agent by the court, a certain amount should bepaid, for the services rendered by the staff and for meeting the requiredexpenditure. Issues: 1)Whether there is a proper legal regulation on Inter- country adoption? 2) Whether the application is limited only to foreignadoption? 3)  Argumentsin brief: Judgement: i)                    TheHonourable Supreme Court stated that while supporting Inter-Country adoption, it is important to manage at the top of the priority list that the primaryobject of giving the child in adoption being the welfare of the people, extraordinary care must be taken in allowing the kid to be given in adoption toforeign parents, keeping in mind that the child might be ignored or deserted bythe adoptive parents in the foreign country or the adoptive parents may not becapable give to the child an existence of good and material security or thechild might be subjected to moral and sexual misconduct or constrained work orexperimentation for medical or other research and might be put in more awfulcircumstance than that in his own country. ii)                 The court later gave the requirements forforeign adoption. It expressed that in any case, each application from aforeigner desiring to adopt must be supported by social or child welfareorganisation recognised or authorized by the government of the country in whichthe foreigner is a resident. iii)                Also, no application by a foreigner for takinga child in adoption ought to be engaged specifically by any social welfareoffice in India working in the zone of Inter-Country adoption or by anyfoundation or focus or home to which children are conferred by the juvenilecourt. iv)               Further, it was demanded that the ageinside which a child ought to be adopted if there should be an occurrence ofInter-Country adoption, stating that if a child is to be given in Inter-Countryadoption, it would be desirable that he is given in such adoption before hefinishes the age of 3 years.

This was because the Supreme Court felt that if achild is received by a foreign parent before he/she achieves the age of 3, he/she has more chances of assimilating to the new condition and culture. v)                 It was also added that since there is nostatutory enactment in our country accommodating adoption of a child by foreignparents or setting out the rules and regulations which must be followed in sucha case, resort must be taken to the provisions of Guardian and Wards Act, 1890to felicitate such an adoption. Rationalefor the decision: CriticalAnalysis: