

Provisions involved: facts in brief: the petitioner, lakshmi

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Provisions involved: Facts in brief: The petitioner, Lakshmi Kant Pandey, a lawyer, wrote to the Supreme Court alleging contempt and malpractice with respect to social associations and private adoption agencies which facilitated the adoption of Indian children to foreign parents. He noticed the long and dangerous journey these children made to foreign nations, alongside cases of indifference they encountered from their adoptive parents bringing about impoverishment or sexual exploitation of the kids. The Court regarded his letter as a writ petition and this came out to be a Public Interest Litigation.

Also, the application filed by the Indian Council for Child Welfare, was for obtaining a direction that when it is required to act as an investigating (scrutinising) agent by the court, a certain amount should be paid, for the services rendered by the staff and for meeting the required expenditure.

Issues: 1) Whether there is a proper legal regulation on Inter-country adoption? 2) Whether the application is limited only to foreign adoption?

3) Arguments in brief: Judgement: i) The Honourable Supreme Court stated that while supporting Inter-Country adoption, it is important to manage at the top of the priority list that the primary object 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 to foreign parents, keeping in mind that the child might be ignored or deserted by the adoptive parents in the foreign country or the adoptive parents may not be capable to give to the child an existence of good and material security or the child might be subjected to moral and sexual misconduct or constrained work or experimentation for medical or other research and might be put in more awful circumstance than that in his own country. ii) The court later

gave the requirements for foreign adoption. It expressed that in any case, each application from a foreigner desiring to adopt must be supported by social or child welfare organisation recognised or authorized by the government of the country in which the foreigner is a resident.

iii) Also, no application by a foreigner for taking a child in adoption ought to be engaged specifically by any social welfare office in India working in the zone of Inter-Country adoption or by any foundation or focus or home to which children are conferred by the juvenile court. iv) Further, it was demanded that the age inside which a child ought to be adopted if there should be an occurrence of Inter-Country adoption, stating that if a child is to be given in Inter-Country adoption, it would be desirable that he is given in such adoption before he finishes the age of 3 years.

This was because the Supreme Court felt that if a child 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 no statutory enactment in our country accommodating adoption of a child by foreign parents or setting out the rules and regulations which must be followed in such a case, resort must be taken to the provisions of Guardian and Wards Act, 1890 to facilitate such an adoption. Rationale for the decision: Critical Analysis: