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2023 SCC OnLine SC 238

In the Supreme Court of India

(Before Dr D.Y. Chandrachud, C.J. and P.S. Narasimha and J.B. Pardiwala, JJ.)

P ... Petitioner(s);

Versus

Union of India and Another ... Respondent(s).

Writ Petition(s) (Civil) No(s). 65/2023

Decided on February 2, 2023

Advocates who appeared in this case:

For Petitioner(s) Dr. Amit Mishra, Adv.

Mr. Rahul Sharma, AOR

For Respondent(s) Mr. Tushar Mehta, SG

Ms. Aishwarya Bhati, ASG

Ms. Ameyavikrama Thanvi, Adv.

Ms. Shivani BLN, Adv.

Ms. Poornima Singh, Adv.

Ms. Shagun Thakur, Adv.

Ms. Shivika Mehra, Adv.

Mr. Nithin Pavuluri Chowdhury, Adv.

Mr. Mayank Pandey, Adv.

Ms. Manisha Chava, Adv.

Mr. Gurmeet Singh Makker, AOR

ORDER

1. In pursuance of the previous order of this Court, Ms. Aishwarya Bhati, Additional Solicitor General and Dr. Amit Mishra, counsel appearing on behalf of the petitioner, have interacted with the petitioner.

2. The Court is apprised of the fact that the petitioner has desired to go ahead with her delivery though she has a desire to do so at an early date. In this context, we would request the All India Institute of Medical Sciences[1] to take all necessary precautions in the interest of the safety and health of the mother and the fetus so that a suitable date for delivery can be fixed bearing in mind the expert medical advice at AIIMS.

3. Ms. Aishwarya Bhati and Dr. Amit Mishra, who have interacted with the petitioner, state that the petitioner does not wish to retain the child with her after delivery.

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4. In the circumstances, having regard to the late stage of the pregnancy, it has been considered in the best interest of the mother and the fetus that the child, upon delivery, may be given in adoption. The request for adoption has been suggested by the petitioner since she would not be in a position to care for the child.

5. The petitioner is about twenty years old. She is reported to have lost her father during the Covid-19 pandemic. She has a mother, who is unwell. The petitioner also has a married sister who is about ten years older than her. Ms. Aishwarya Bhati has informed the Court that she has also interacted with the sister of the petitioner to explore whether she would be willing to take the child in adoption. However, the sister expressed her inability to do so for a variety of reasons.

6. In this backdrop, Mr. Tushar Mehta, Solicitor General and Ms. Aishwarya Bhati have apprised the Court that an effort has been made to facilitate the process of adoption of the child after delivery, by prospective parents who are registered with the Child Adoption Resource Authority[2] under the auspices of the Union Ministry of Women and Child Development. The Court is apprised of the fact that two prospective parents who have been registered with a parent registration number under CARA are ready and willing to adopt the child. In the interest of the privacy of the adopted parents, the parent registration number has not been referred to in the present order.

7. We accordingly issue the following directions:

(i) In terms of the request which is made before the Court, the delivery of the child by the petitioner shall take place at AIIMS. We request the Director, AIIMS to ensure that all necessary facilities are made available without the payment of fees, charges or expenses of any nature so that the delivery can take place in a safe environment at AIIMS. The privacy of the petitioner shall be maintained and all steps shall be taken to ensure that the identity of the petitioner is not divulged in the course of the hospitalization at AIIMS; and

(ii) Permission is granted for the adoption of the child by the prospective parents whose details have been set out in the CARA registration form. CARA shall take all necessary steps to facilitate the implementation of this order.

8. We are adopting the present course of action consistent with the jurisdiction of this Court under Article 142 of the Constitution having regard to the extraordinary situation which has emerged before the Court involving a young woman in distress, who moved this Court at a late stage of her pregnancy.

9. The petition is accordingly disposed of.

10. Liberty is granted to counsel for the petitioner as well as the

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Additional Solicitor General to move this Court for further directions, if any, required at a later stage.

11. Pending application, if any, stands disposed of.

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[1] "AIIMS"

[2] "CARA"

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