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Child Welfare Over Procedural Rigidity: Delhi High Court on CARA’s NOC in HAMA Adoption Involving OCI Parents and Expatriate Adoption

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Adoption law in India often operates at the intersection of personal law, statutory regulation, child welfare, and international movement. This intersection becomes particularly complex when an adoption is completed under the **Hindu Adoptions and Maintenance Act, 1956** by adoptive parents who are Indian-origin foreign citizens or Overseas Citizens of India, but the receiving country does not treat the adoption as a conventional inter-country adoption.

The Delhi High Court's Decision in Ms. Karnika Khandelwal

The Delhi High Court's decision in **Ms. Karnika Khandelwal**[1], represented by Abhinav Khandelwal and Hema Pandey v. Union of India & Anr. addresses this precise difficulty. The case concerned a minor child adopted under HAMA by OCI adoptive parents residing in Australia, whose request for a No Objection Certificate was rejected by CARA on the ground that the procedure under Regulation 68 of the Adoption Regulations, 2022 had not been followed.

The Court was therefore called upon to examine whether CARA could insist on strict procedural compliance when the Australian authorities themselves had classified the adoption as an "expatriate adoption" and did not process such cases through the usual inter-country adoption route.

The judgment is significant because it adopts a *practical and child-centric approach*. While recognising the importance of regulatory safeguards in inter-country adoption matters, the Court clarified that procedural requirements cannot be applied mechanically where compliance is rendered impossible due to the policy position of the receiving country. In doing so, the Court reinforced that the welfare and future of the adopted child must remain the central consideration in adoption-related decision-making.

Background of the Case

The case arose from the refusal of the **Central Adoption Resource Authority (CARA)** to issue a No Objection Certificate (NOC) and a Conformity Certificate in respect of the adoption of a minor child, Karnika Khandelwal. The petitioner, represented through her adoptive parents, approached the Delhi High Court challenging CARA's refusal.

The Adoption and Its Documentation

The minor child was born on 20 June 2023 and was adopted on 27 June 2023 in accordance with Hindu customs by Mr. Abhinav Khandelwal and Ms. Hema Pandey. The adoptive parents are persons of Indian origin, holding Australian citizenship and registered as **Overseas Citizens of India (OCI)**.

Subsequently, an Adoption Deed dated 05 March 2024 was executed under the Hindu Adoptions and Maintenance Act, 1956. A birth certificate was also issued on 06 November 2024, recording the adoptive parents as the parents of the minor child.

CARA's Rejection of the NOC Application

On 12 March 2025, the adoptive parents applied through CARA's CARINGS portal seeking issuance of an NOC. However, CARA rejected the application by its communication dated 19 June 2025, stating that the applicants were required to comply with **Chapter VIII of the Adoption Regulations, 2022**, particularly Regulation 68, which deals with inter-country adoptions initiated after 17 September 2021.

According to CARA, the application was required to be sponsored by the Central Authority or Authorised Foreign Adoption Agency in the receiving country, namely Australia.

The Practical Impossibility of Compliance

The petitioner's case was that compliance with **Regulation 68** was practically impossible in the facts of the matter. The Australian authorities had classified the adoption as an "expatriate adoption" and had clarified that such adoptions are not automatically recognised under Australian law.

Further, Adoption Victoria did not process HAMA adoptions from India, as India was treated as a non-active country programme. The Australian Government's role was limited to examining whether the child satisfied immigration requirements for entry and stay in Australia.

In these circumstances, the petitioner contended that CARA could not mechanically insist upon a sponsoring letter from the Australian authority when the receiving country itself did not process such cases through the regular inter-country adoption

framework. The petitioner therefore sought a direction from the Delhi High Court requiring CARA to issue the necessary NOC and support documents, subject to verification by the competent Indian authorities.

Main Question of Law

Whether **CARA can refuse to issue an NOC** for a HAMA adoption completed by OCI adoptive parents residing abroad, merely because the procedure under Regulation 68 of the Adoption Regulations, 2022 was not followed, even though the receiving country has classified the adoption as an expatriate adoption and does not process such cases through the regular inter-country adoption route.

Petitioner's Case

The petitioner contended that CARA's refusal to issue the **No Objection Certificate** had placed a legally adopted child in a state of uncertainty. The adoption had already been completed under the Hindu Adoptions and Maintenance Act, 1956, followed by execution of an adoption deed and issuance of a birth certificate recognising the adoptive parents as the child's parents.

It was argued that CARA had mechanically applied Regulation 68 of the Adoption Regulations, 2022, without considering that compliance was practically impossible. The petitioner raised the following key arguments:

- Regulation 68 requires sponsorship by the Central Authority or Authorised Foreign Adoption Agency in the receiving country. However, the Australian authorities had classified the adoption as an **"expatriate adoption"**, outside the regular inter-country adoption process.
- Adoption Victoria did not process HAMA adoptions from India, and the Australian Government's role was limited to assessing the child's immigration eligibility.
- Insisting on a sponsoring letter from Australia would amount to imposing an *impossible condition*.

Reliance on Prior High Court Decisions

The petitioner relied on the Bombay High Court's decision in **Mangesh Bhaskarrao Manwatkar v. Union of India**[2] and the Gujarat High Court's decision in **Akshay Pitamber Sarvakar v. CARA**[3], where similar HAMA adoptions involving Australian expatriate-adoption classification were directed to be processed through the verification route rather than rejected on technical grounds.

The petitioner then submitted that CARA ought to process the case under **Regulation 69**, through verification by the concerned District Magistrate, and thereafter issue the necessary NOC in the welfare and future interest of the minor child.

CARA's Stand

CARA opposed the request for issuance of the No Objection Certificate. Its objections rested on the following grounds:

- The adoptive parents had not complied with the procedure prescribed under **Regulation 68** of the Adoption Regulations, 2022.
- Since the adoptive parents were OCI cardholders habitually residing in Australia, the adoption was required to follow the process applicable to inter-country HAMA adoptions initiated after 17 September 2021.
- The application had not been sponsored by the Central Authority or Authorised Foreign Adoption Agency in the receiving country, which CARA considered a *mandatory prerequisite* under Regulation 68.

On this basis, CARA justified its refusal to issue the NOC and directed the adoptive parents to follow the prescribed procedure under Chapter VIII of the Adoption Regulations, 2022.

Court's Analysis

The Delhi High Court noted that while Regulation 68 of the Adoption Regulations, 2022 ordinarily governs inter-country HAMA adoptions initiated after 17 September 2021, the present case could not be viewed through a *purely technical lens*. The adoption had already been completed under HAMA, and the Australian authorities had classified it as an expatriate adoption, outside the regular inter-country adoption framework.

Relying on the Bombay High Court's decision in **Mangesh Bhaskarrao Manwatkar** and the Gujarat High Court's decision in **Akshay Pitamber Sarvakar**, the Court held that similar cases should be processed through the verification mechanism under Regulation 69, rather than being rejected for want of a foreign sponsoring letter. The Court recognised that insisting on

Regulation 68 in such circumstances would create a *procedural deadlock* and adversely affect the welfare of the minor child.

At the same time, the Court did not dispense with statutory scrutiny. It directed that the concerned District Magistrate must first conduct the necessary inquiry and issue the certificate in the prescribed format under Schedules XXXV and XXXVI. Upon such verification, CARA was directed to issue the necessary NOC, with the authorities being asked to expedite the process in the interest of the child's future.

Decision of the Court

The Delhi High Court held that the petitioner's case was covered by the approach adopted in similar matters by the Bombay High Court and the Gujarat High Court. Accordingly, the Court directed CARA to issue the necessary **No Objection Certificate** in respect of the minor child's adoption.

However, the Court made the issuance of the NOC subject to completion of the required verification process. The Court issued the following directions:

1. The concerned **District Magistrate** was directed to conduct the necessary inquiry and issue the certificate in the prescribed format under Schedules XXXV and XXXVI of the Adoption Regulations, 2022, as contemplated under Regulation 69.
2. Upon completion of verification, **CARA** was directed to issue the necessary NOC.
3. The concerned authorities, including the District Magistrate and CARA, were directed to **expedite the process**, keeping in mind the welfare and future of the minor child.

Why the Judgment Matters

This judgment is important because it balances two competing concerns: the need for **regulatory safeguards** in cross-border adoption matters and the need to protect the welfare of a child whose adoption has already been legally completed.

The Court did not dilute CARA's role. Instead, it clarified that CARA's role must be exercised in a *practical and child-centric manner*. Where the receiving country does not process a HAMA adoption as a regular inter-country adoption, CARA cannot insist upon a document that the foreign authority itself does not issue.

The decision is particularly relevant for OCI and NRI adoptive parents residing in Australia, where HAMA adoptions may be treated as expatriate adoptions. Key takeaways include:

- It provides a **workable path** by recognising that verification through the District Magistrate under Regulation 69 can satisfy the need for scrutiny while preventing the child's future from being stalled by procedural impossibility.
- It highlights the need for **harmonisation** between personal law adoptions under HAMA, the Adoption Regulations, 2022, and foreign immigration requirements.
- In cases where systems do not align perfectly, courts must ensure that *procedure serves the welfare of the child* rather than defeating it.

Conclusion

The Delhi High Court's ruling in **Ms. Karnika Khandelwal v. Union of India & Anr.** is a significant development in the treatment of HAMA adoptions involving OCI adoptive parents and expatriate adoption classification by Australia. The Court adopted a pragmatic approach by directing verification under Regulation 69 instead of allowing the matter to remain blocked due to non-compliance with Regulation 68.

The judgment reinforces that while procedural safeguards are essential in adoption matters, they must not be applied so rigidly that they prejudice the welfare, identity and future of the adopted child. Ultimately, the decision places **child welfare** at the centre of adoption law and ensures that legally completed HAMA adoptions are not defeated by procedural uncertainty.

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