

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

**ON THE 22<sup>nd</sup> OF DECEMBER, 2023**

**WRIT PETITION No. 31000 of 2023**

**BETWEEN:-**

**RAM PRATAP S/O SHRI KUNDAN LAL, AGED  
ABOUT 35 YEARS, OCCUPATION: ADOPTED  
SON OF LATE JAWAHARLAL OCC.  
UNEMPLOYED R/O VILLAGE BONDER TEHSIL  
BAJAG DISTRICT DINDORI (MADHYA  
PRADESH)**

**.....PETITIONER**

***(BY SHRI ANUBHAV SINGHAL - ADVOCATE )***

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH PRINCIPAL SECRETARY  
SCHOOL EDUCATION DEPARTMENT  
VALLABH BHAWAN, BHOPAL (MADHYA  
PRADESH)**
- 2. COLLECTOR, DINDORI DISTRICT  
DINDORI (MADHYA PRADESH)**
- 3. BLOCK EDUCATION OFFICER, BLOCK  
KARANJIYA DISTRICT DINDORI  
(MADHYA PRADESH)**
- 4. DISTRICT EDUCATION OFFICER,  
DINDORI DISTRICT DINDORI (MADHYA  
PRADESH)**
- 5. PRINCIPAL, GOVERNMENT HIGHER  
SECONDARY SCHOOL KURKHURI  
DADAR, RAIYTWAR BLOCK  
DEVELOPMENT KARANJIYA DISTRICT  
DINDORI (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SWAPNIL GANGULY – DEPUTY ADVOCATE GENERAL )***

.....

*This petition coming on for admission this day, the court passed the following:*

### **ORDER**

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs :-

“(i) Issue a writ in the nature of *mandamus* to direct the respondents to give compassionate appointment to the petitioner on suitable post being the adopted son of Late Jawaharlal.

(ii) To grant any other relief, which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case including cost of the litigation in favour of the petitioner.”

2. It is submitted by counsel for petitioner that petitioner was adopted by Shri Late Jawaharlal. Shri Jawaharlal was working as Peon in Government Higher Secondary School Khurkhuri Dadar, Raiytwar, Block Development Karanjiya, District Dindori. He died in harness on 16.01.2020 and adoption deed was also executed. As per the policy for appointment on compassionate ground even an adopted son is entitled for compassionate appointment. Although the petitioner has made an application for his appointment on compassionate ground but no heed has been paid.

3. Considered the submissions made by counsel for petitioner.

4. Section 11 of The Hindu Adoption and Maintenance Act, 1956 reads as under :-

**“11.Other conditions for a valid adoption.—**In every adoption, the following conditions must be complied with:—

(i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption;

(ii) if the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption;

(iii) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;

(iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted;

(v) the same child may not be adopted simultaneously by two or more persons;

(vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth [or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up] to the family of its adoption:

Provided that the performance of *datta homam* shall not be essential to the validity of adoption”

5. Thus, it is clear that apart from other conditions, the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known from the place or

family where it has been brought up to the family of its adoption. Therefore, handing over and taking over the actual custody of the child is essential.

6. The petitioner has filed a copy of adoption deed as Annexure P-2, in which it is stated by Jawaharlal that his wife has deserted her. He has three daughters. The eldest daughter Laxmi Bai is married; whereas remaining two daughters are residing with him. He has no male child and in absence of male child there is nobody to take his family further and accordingly with the consent of parents as well as relatives of natural parents of petitioner, the petitioner has been kept by him as his adopted son since he was 10 years of age. The petitioner shall be having all the rights in his moveable and immoveable property and he will also be entitled to receive all Government/non-Government dues. After his death, in case if anybody else, except his daughters and adopted son, stakes his claim on his moveable/immoveable/Government/private dues, then said claim would be bad.

7. There is no mention that on what date the petitioner was adopted by Late Jawaharlal. There is no mention that the actual custody of petitioner was handedover by his biological parents to Late Jawaharlal. The petitioner has not filed any document like marksheet etc. to show that the name of Late Jawaharlal was recorded as his father. Therefore, it is clear that adoption deed, which has been relied upon by the petitioner, is not valid in the light of Section 11 of the Hindu Adoption and maintenance Act.

8. Accordingly, it is held that the petitioner is not entitled for appointment on compassionate ground on the basis of adoption deed.

9. No case is made out for even directing the respondents to decide the application filed by petitioner for his appointment on compassionate ground.

10. Accordingly, this Court is of the considered opinion that no case is made out warranting interference.

11. The petition fails and is hereby **dismissed**.

**(G.S.AHLUWALIA)**  
**JUDGE**

TG/-