REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SHABNAM HASHMI V. UNION OF INDIA (2014)

BENCH: Mr. Justice P. Sathasivam (CJI), Mr. Justice Ranjan Gogoi & Mr. Justice Shiva Kirti Singh

DECIDED: February 19, 2014

RATIO DECIDENDI & PRECEDENTIAL CRUX:

Right to adopt a child under Juvenile Justice Act is a secular right available to all prospective parents regardless of religion, overriding personal law bars.

1. Factual Matrix & Background:

A social activist moved the Supreme Court under Article 32 seeking recognition of the right to adopt and be adopted as a fundamental right, and praying that prospective parents belonging to minority religions whose personal laws do not recognize adoption should be entitled to adopt under secular law.

2. Substantive Legal Questions Framed:

Whether the Juvenile Justice Act provides a secular, non-religious legal framework for adoption available to all Indian citizens regardless of personal law prohibitions.

3. Analysis & Ratio Decidendi:

The Supreme Court held that the Juvenile Justice Act is a secular legislation of universal application. Prospective adoptive parents belonging to any religious denomination (Muslim, Christian, Parsi, Hindu) are legally entitled to adopt a child under the JJ Act, notwithstanding that their personal religious law does not recognize adoption. The JJ Act enables parenthood while safeguarding child welfare.

4. Principles Enunciated:

- 1. Juvenile Justice Act is a secular statute providing adoption rights to all citizens.
- 2. Personal laws that do not recognize adoption cannot restrict adoption under the JJ Act.
- 3. The secular adoption framework advances the constitutional mandate of child welfare.

5. Practical Litigation Implications:

- Prospective parents of any religious background seeking legal adoption should route their application through the Central Adoption Resource Authority (CARA) under the JJ Act.

.....J.
[SUPREME COURT BENCH]

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