



2025:AHC-LKO:77122

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - A No. - 493 of 2024**

Shanu Kumar (Adopted Son)

.....Petitioner(s)

Versus

The Nagar Ayukt Municipal (Commissioner)  
Nagar Nigam Lko. And 2 Others

.....Respondent(s)

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Counsel for Petitioner(s)	:	Arvind Kumar Vishwakarma
Counsel for Respondent(s)	:	Namit Sharma, Krishna Kumar Pandey

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**Court No. - 18**

**HON'BLE SHREE PRAKASH SINGH, J.**

1. Heard Mr. Arvind Kumar Vishwakarma, learned counsel for the petitioner and Mr. Krishna Kumar Pandey, learned counsel for the respondents.

2. The challenge is laid to the order dated September 2, 2023, passed by the respondents, by virtue of which the claim of the petitioner has been rejected on the ground that the petitioner was 25 years of age at the time of issuance of the age certificate dated August 2, 2019, by the Chief Medical Officer, as such before the date of execution of the adoption deed, i.e., September 6, 2012, age of the petitioner would be 18 years, which is impermissible as per the provisions of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as "the Act, 1956").

3. The factual matrix of the case is that the petitioner is the adopted son of deceased employee, namely Ramesh, who was appointed on the post of Sweeper (Class IV), on temporary basis, and his services were regularized, and he died in harness. After the death of the deceased Ramesh, the petitioner raised a claim for his appointment on compassionate grounds, being his adopted son, invoking the provision of the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (hereinafter

referred to as "the Rules, 1974"). The petitioner has claimed the aforesaid appointment on the ground of being the adopted son by virtue of a registered adoption deed. Once the claim of the petitioner was not considered, the petitioner instituted Writ-A No.554 of 2023, wherein this Hon'ble Court, vide order dated January 23, 2023, gave liberty to the petitioner to move a fresh representation before the Municipal Commissioner, Lucknow, who, in turn, was directed to decide the claim of the petitioner within a period of three months, and in compliance thereof, the order impugned herein dated September 2, 2023, has been passed, declining the claim of the petitioner, on the ground that the adoption deed is not in consonance with the Act, 1956.

4. The contention put forth by learned counsel for petitioner is that the petitioner is an adopted son of deceased employee, who was working in the Municipal Corporation, Lucknow, which is an undisputed fact. He further submits that the adoption is done while executing registered deed and, therefore, unless the adoption deed is cancelled or nullified, the status of the petitioner would be as an adopted son of the deceased employee. He submitted that the adoption deed can not be cancelled or otherwise interpreted or presumed by any authority, except apart the court of civil competence. He added that clause-7 of the rejection order dated 02.09.2023 discloses the reasons that as per the date of birth, the age of the petitioner would be 18 years at the time of adoption i.e. 06.09.2012, which is impermissible under the Act of 1956. He submits that it is not open for the Municipal Commissioner, who under the administrative capacity entered into the issue of validity of adoption deed. Concluding his arguments he submits that since the claim of petitioner regarding the appointment on compassionate ground, has been rejected, on wrong premises, therefore, the same do not stand in the eyes of law, therefore, the impugned order may be quashed.

5. Per contra, learned counsel for the respondents have opposed the aforesaid contentions to some extent but he could not refute the contention that the Municipal Commissioner has no authority to test

the validity of the registered adoption deed, by virtue of which, the petitioner has been given the status of an 'Adopted Son'.

6. Upon considering the submissions of the learned counsel for the parties, it is apparent that the petitioner is an adopted son of deceased employee, namely Ramesh, who died in harness. After his death, the petitioner raised his claim for appointment on compassionate ground, under the provisions of Rules, 1974, which has been declined by the competent authority, on the ground that if the age of the petitioner is counted as is mentioned in the age certificate, to the date of adoption, i.e., September 6, 2012, his age would be 18 years at the time of adoption, which is impermissible, and therefore, the adoption deed is not genuine.

7. The question cropped up for consideration is, whether the administrative authority, while considering the claim of legal heir of a deceased employee for appointment, can test the validity of a registered deed, i.e., adoption deed. When this Court examines the above-said legal question, it is apparent that the adoption deed is admittedly registered, which gives status to the petitioner as an adopted son, under the provisions of the Act, 1956.

8. The consequence/effect of adoption has been prescribed under Section 12 of the Act, 1956, which reads as under:

*"12. Effects of adoption. An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family:*

*Provided that*

*(a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth,*

*(b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in*

*the family of his or her birth;*

*(c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption. "*

9. The above-said provision provides that an adopted child shall be deemed to be the child of his/her adoptive father or mother for all purposes with effect from the date of adoption. It is not out of place to mention that the words 'All Purpose' given in the Act 1956 shall also cover, such adopted son to be considered as 'son', who is entitled for the claim of the appointment on compassionate ground, under Rules 1974.

10. Further, the presumption regarding the registered document relating the adoption has been provided under Section 16 of the Act 1956, which reads as under:-

*"16. Presumption as to registered documents relating to adoption.-Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved."*

11. The above-said provision prescribes that as soon as any document registered under any law for the time being in force, is produced before any court regarding adoption, that shall be presumed in compliance with the provisions of the Act of 1956, unless and until it is disproved.

12. It is settled law that after registration of any document, the competent authority for its disproving or cancellation, is the civil court alone. If any registered document is brought before any administrative authority, the domain of such authority is to examine its genuineness that whether it is actually registered or not, but, whether the contents of the registered deed are such which, in fact, ultimately, took it for cancellation, the same cannot be declined on this ground unless it is cancelled by a court of civil competence. In fact, the very

genesis of this principle is that if this would be open for the administrative authority to decline its validity on certain disputed facts mentioned therein, the purpose of registration of such a document would be frustrated. The recourse open before such authority is to challenge the validity of such a document before the civil court. Further, even the power of an administrative authority, for undertaking the procedure of appointment, on compassionate ground, under the Rules of 1974, is not quasi-judicial, but administrative in nature.

13. In fact, the legislature, in its wisdom and intent, has particularly prescribed the provision under section 16 of the Act of 1956, while giving protection to the rights of the adopted son. Perhaps it was in the mind of the legislature that, if someone disproves the adoption deed on the administrative side, the child who has been adopted and has lost his all rights and interest in the property of his natural family (father and mother), would jeopardize, if the protection is not granted. In this background, this Court finds that the administrative authority has no right to dwell into the question of a registered adoption deed being unlawful, unless it is disproved, while adopting the lawful recourse.

14. This Court further finds that the ground for rejection of the claim of the petitioner for compassionate appointment does not stand on its own legs and, therefore, the same is also covered with the ratio as held in the case of *Mohinder Singh Gill Vs. Chief Election Commissioner, New Delhi* reported in (1978) 1 SCC 405.

15. In view of the aforementioned submissions and discussions, the order impugned is unsustainable. Consequently, the order dated September 2, 2023, is hereby quashed.

16. The Municipal Corporation, Lucknow, is directed to reconsider and decide the matter for the appointment of the petitioner, under the Rules 1974, as well as the observations made, herein above, afresh, within a period of two months, from the date of production of a certified copy of this order before him.

17. The present petition stands **allowed** accordingly.

**November 24, 2025**

Ram Murti

**(Shree Prakash Singh,J.)**