
CASE ANALYSIS: SHABNAMJAHAN V/S STATE OF MAHARASHTRA (2023 SCC ONLINE BOM 790)

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INTRODUCTION

Adoption laws in India aim to provide children with stable and nurturing families while also providing a strong legal framework which also lays down the legal rights and responsibilities of adoptive parents. *Shabnam Jahan v. State of Maharashtra (2023 SCC Online Bom 790)*¹ is a noteworthy decision issued by the Bombay High Court. The ruling acknowledged the child's welfare needs as a basis for legislative issues versus society's more historical constructs of family in respect of making adoption judgments. The ruling confirmed the ability of single and divorced persons to adopt. The ruling challenged not only gender bias as an element of decision making, but more importantly, as a doctrine of legal principle which rejected society's presumptions and acknowledged a child's "best interest" required of decision making.

The case involved a divorced working woman who sought to adopt her niece with the "no objection" from the biological parents. The District Court dismissed her application based upon the application gender identity, work status and marital status. The District Court justified that her "divorced woman" identity and the related demands of being an employee, made it impossible to meet her needed obligations to her niece, even though the biological parents were less capable of meeting those obligations.

The illegitimacy was a reflection of traditional views on child rearing for women based upon patriarchal identity in contrast to *Doctrinal principles of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act)*². The married applicant wrote to the High Court for reconsideration of the arbitrary decision of the District Court to not grant her application based upon the pretext of traditional family. In notes from the judgment of the Honourable High Court, *JUSTICE GAURI GODSE* overturned the order made by the District Court, citing as well the principles of adoption under the JJ Act which requires single and divorced women

¹ Shabnam Jahan v. State of Maharashtra, (2023) SCC Online Bom 790.

² Juvenile Justice (Care and Protection of Children) Act, 2015.

to be able to adopt. The judgment shows the gradual shift in attitudes of the judiciary towards matters of adoption, as well as addressing the issues of unfair presumptions that our society holds as well as stereotypes associated with the gendered identity. This analysis will explore factual background, procedural history for jurisdictional considerations for the courts, legal conundrum associated with the decision, judicial reasoning and potential implications of the High Court ruling.

FACTS OF THE CASE

PARTIES INVOLVED

1. The petitioner in the present matter is a 47-year-old teacher **Ms. Shabnamjahan Moinuddin Ansari** who is willing to adopt her biological niece Aayat Fatima, a minor, born on the 15th of November, 2019. The biological parents of the minor, Mr. Shaikh Salim Maimuddin and Mrs. Kaiserjahan Shaikh Salim have agreed to the said adoption.

2. The respondent in the present case is the **State of Maharashtra**, through learned Assistant Government Pleader Mr. S.B. Pulkundwar.

The petitioner is represented by learned counsel Mr. N.S. Shah and Mr. S.S. Patil. The present petition was before the *Hon'ble Bombay High Court, Aurangabad bench³ before Hon'ble Justice Gauri Godse.*

BACKGROUND

The petitioner, being the biological aunt of the minor child, sought to undertake an in-country relative adoption in accordance with the provisions of the *Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the "JJ Act") and the Adoption Regulations, 2017*, subsequently superseded by the **Adoption Regulations, 2022⁴**. The adoption was proposed under **Section 56(2) of the JJ Act⁵** which allows for the adoption of the child by a relative regardless of religion provided that the adoption is done in accord with the law.

³ Bombay High Court, Aurangabad Bench, Civil Revision Application No. 24 of 2020, Order (Apr. 11, 2023).

⁴ Gazette of India, Adoption Regulations, 2022, § 3.

⁵ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 56(2).

The petitioner registered with the **Central Adoption Resource Authority (CARA)**⁶ followed by a detailed assessment by the District Child Protection Unit as per the statutory procedure. **Rule 55 of the Adoption Regulations, 2017**⁷, requires a study of the financial status, physical fitness, state of mind and motivation of the petitioner. A home visit was carried out by the District Child Protection Officer who wrote a report confirming that the petitioner was fit and suitable to adopt the minor. The biological parents also executed the necessary consents as prescribed along with **Schedule XIX of the Bombay High Court, Aurangabad Bench Regulations**. Also, CARA provided pre-approval letter stating that all the statutory formalities have been complied with which establishes the legal capacity of the petitioner to adopt.

REJECTION BY THE DISTRICT COURT

Although the petitioner complied with all the requisite procedure and the statutory framework, the learned **District Judge-1, Bhusawal**, order dated March 8, 2022, rejected the adoption application. The application for adoption was rejected for the reason that since the petitioner is a single working woman, she will not be able to provide adequate personal care and attention to the minor. The court compared the biological mother, a housewife, with the petitioner a working one, and concluded that the respondent biological parents are in a better position to look after the child.

The reasoning provided by the learned District Judge contradicts the clear provisions of the Juvenile Justice Act, particularly **Section 57(3)**⁸, which states that a single or divorced person is eligible for adoption provided all prescribed parameters are met. The court should have noted that the law does not deem a prospective adoptive parent ineligible because a person is employed. Rather, the person needs to adopt in order to ensure the welfare and best interest of the child. Also, as per the provisions of **Section 61 of the JJ Act**⁹, before issuing an adoption order, the Court shall satisfy itself regarding the adoption being in the welfare of the child as well as compliance with all procedures. The order in question did not record any findings against statutory compliance and relied on mere assumptions and irrelevant factors, rendering the rejection legally irrational and untenable.

⁶ Central Adoption Resource Authority, Pre-approval Letter, (May 23, 2022).

⁷ Adoption Regulations, 2017, Rule 55.

⁸ Juvenile Justice (Care and Protection of Children) Act, 2015, § 57(3).

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 61.

HIGH COURT PROCEEDINGS

Aggravated/Upset with the rejection, the petitioner filed a Civil Revision Application under *Section 102 of the JJ Act before the Bombay High Court*, Aurangabad Bench. The court carefully looked through all laws, policies and procedures that had to do with adoption. The court also looked at the *Adoption Regulations, 2017*. The *Rule 51¹⁰* is important which provides the procedural framework for in-country relative adoptions and specifies the documentation and verification to be done prior to the finalization of the adoption.

The Hon'ble Court realized that the reason for rejecting the adoption application was not any statutory non-compliance but the old and regressive idea of what a family should look like. The judgement which was undertaken by the learned District Judge was evidently in opposition to the legislative intent which is to facilitate adoption in the interest of the child and not to create unnecessary barriers. The court made it clear that being employed must not disqualify a single parent because it would defeat the object and purpose of the JJ Act.

The Court finds that the learned District Judge's approach was legally wrong and goes against what the District Child Welfare Officer recommends and what CARA previously approved. The court has also found that a recent case (*Sumed S/o Devidas Thamke (2021) 6 Mah LJ 69¹¹*) states that adoption is not limited to orphans but can apply to all children assuming that the required processes comply strictly with the statute.

PROCEDURAL HISTORY

1. **Trial Court (District Judge-1, Bhusawal):** Rejection of the adoption application on 8th March 2022 stating that the adoptive parent i.e., working, single, and divorced woman will not be able to give personal attention.
2. **Bombay High Court (Aurangabad Bench):** Accepted case; ruled on 11 April 2023, deciding the matter in favour of the petitioner

¹⁰ Ministry of Women and Child Development, Guidelines Governing Adoption of Children, 2015, Reg. 51.

¹¹ Sumed S/o Devidas Thamke v. State of Maharashtra, (2021) 6 Mah LJ 69.

To understand how the case progresses chronologically, one can see events in the below table.

DATE	EVENT
August 13, 2020	The applicant filed Civil Miscellaneous Application No. 24 of 2020 before the District Judge-1, Bhusawal, seeking an adoption order.
March 8, 2022	The District Judge-1, Bhusawal, rejected the adoption application on the grounds that the applicant was a single, working woman and a divorcee.
Between March 2022–Early 2023	The applicant filed a Civil Revision Application before the Hon'ble Bombay High Court, challenging the rejection order.
May 23, 2022	The Assistant Director of CARA issued a pre-approval letter confirming that the applicant met all statutory requirements for adoption.
April 11, 2023	The Hon'ble Bombay High Court (Aurangabad Bench) delivered its judgment, setting aside the District Court's rejection and granting the adoption order.

ISSUES BEFORE THE COURT

1. Whether a single or divorced woman legally adopt a minor child under the JJ Act, 2015 and the Adoption Regulations, 2017 or now superseded by Adoption Regulations, 2022?
2. Whether the trial court erred in rejecting the adoption application solely on the basis that the petitioner was a working woman and a divorcee?
3. Whether the trial court's decision was contrary to the recommendations of the District Child Welfare Committee and CARA, which had found the petitioner fit for adoption?
4. Whether the rejection of the adoption application was founded on archaic notions of family instead of the child's welfare?

RULE(S) APPLICABLE IN THE CASE

1. Section 57(3) of the JJ Act, 2015¹²: This provision expressly states that "a single or divorced

¹² Juvenile Justice (Care and Protection of Children) Act, 2015, § 57(3).

person can apply for, and be evaluated for, adoption." It confirms that a person's marital status does not disqualify them from adoption, and inclusion in parental rights is an intended purpose of the statute. The main focus of the provision is whether the adoptive parent (1) can care for the child, (2) is financially responsible and stable, and (3) is of sound mind and goes about their responsibilities in alertness. It indicates that being single or divorced does not diminish the ability of a person to provide a safe and loving environment for a child. The provision ensures that an adoption request is not denied based solely on irrational or biased reasoning, rather than a statutory exclusion.

2. **Section 61 of the JJ Act¹³** requires that judges need to confirm three fundamental aspects before making an adoption order: child's best interests and fulfilment of relevant statutory requirements and absence of financial incentives or issues in the adoption process. The court determines if both proper considerations has been given to child welfare standards and financial benefits or issues have not affected the adoption process. The provision exists to maintain absolute legal reasoning behind adoption requests that avoids assumptions about future family arrangements.
3. **Under Rule 55 of the Adoption Regulation, 2017¹⁴** the legal requirements outline in-country relative adoptions while presenting verification protocols for adopting a child. The verification process confirms CARA registration of potential adoptive parents as well as it includes collecting biological parent consent letters or reporting on how adoptive parents demonstrate valid care standards. The overview process safeguards against illegal adoptions by protecting what is best for the child through a legal framework that ensures fairness.

4. Relevant Precedent: Sumed s/o Devidas Thamke (2021) 6 Mah LJ 695¹⁵

The Bombay High Court, in this case, held that the JJ Act applies to adoptions by relatives and must be interpreted liberally to promote child welfare. The ruling reinforced that courts must prioritize the welfare of the child rather than apply rigid interpretations of family norms.

¹³ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 61.

¹⁴ Adoption Regulations, 2017, Rule 55.

¹⁵ Sumed S/o Devidas Thamke v. State of Maharashtra, (2021) 6 Mah LJ 69.

APPLICATION AND ANALYSIS

The ruling in *Shabnamjahan Moinuddin Ansari vs. State of Maharashtra* represents a substantial judicial interpretation of *Sections 56¹⁶, 57¹⁷ and 61¹⁸ of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), and the Adoption Regulations, 2017 (which have since been replaced by the 2022 Regulations)*. Cases such as these illustrate legislative intent to centre children's welfare as the primary consideration in the adoption process while purging the courts of antiquated judicial thinking that place restrictions on single prospective adoptive parents.

1. STATUTORY FRAMEWORK AND INTERPRETATION BY THE COURT

The Hon'ble High Court held that Sections 56, 57 and 61 of the JJ Act and the Adoption Regulations, 2020(which were later replaced by the Adoption Regulations, 2022) must be interpreted strictly.

1. *Section 56(2) of the JJ Act* lays down that adoption can take place irrespective of the religion of the parties, provided it is undertaken in compliance with the Act and regulations framed thereunder. In present case petitioner is biological aunt of the child and he seeks for adoption in-country relative adoption under the Adoption Regulations, 2017.
2. *Section 57(3) of the JJ Act*, single or divorcees are eligible to adopt, provided they comply with all procedural requirements. As such, the petitioner's application for adoption could not have been rejected simply on the ground that she is a working single woman, as this would be clearly contrary to the statute.
3. *Section 61 of the JJ Act* states that before making an order of adoption, the court must ensure that-
 - a. the adoption is for the welfare of the child,
 - b. all the procedures have been complied with and

¹⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 56(2).

¹⁷ Juvenile Justice (Care and Protection of Children) Act, 2015, § 57(3).

¹⁸ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 61.

- c. no financial transaction has taken place in consideration of the adoption. This was not the reason cited by the District Court in its rejection order thus making the rejection perverse in law.

2. ERRONEOUS JUDICIAL REASONING AND INTERVENTION BY THE HIGH COURT

The main reason the District Judge rejected the petitioner's application for adoption was that she was working and single woman and would not be able to devote adequate personal time to the child. The reasoning behind rejection was outdated and contrary to the intention of the JJ Act, the High Court observed. The rejection decision of the learned District Judge sought to apply care-giver's role from a time-worn viewpoint which has no place in modern jurisdiction.

The High Court is justified in observing that the judicial discretion in matters of adoption is not unfettered and has to operate within the confines of law. The order which rejected the application imposed an extra condition that a single adoptive parent must not be working. This condition doesn't have any basis in the *JJ Act and Adoption Regulations*. The Bombay High Court has critically analysed that the judicial discretion should be exercised strictly within the framework of the statute and must not be influenced by societal stereotypes.

Moreover, the High Court has taken into reference the report of District Child Welfare Officer's and the letter of pre-approval from CARA which clearly stated that the petitioner is fit to be an adoptive parent. These evaluations were done in accordance with Rule *51 of the Adoption Regulations, 2017*, which lays down a well-defined procedure of assessment prior to issuance of adoption order. Thus, the rejection led to a failure of legal application of mind and was liable to be interfered by the high court.

2.1. Rejection of Judicial Overreach and Gender Bias

A key feature of the Bombay High Court ruling was its strong commendation of limited judicial interference in adoption matters. By stating that the District Court's rationale was influenced by personal bias and not statutory provisions, the judgment reaffirms that judicial discretion shall be exercised within the four corners of the statute. The ruling goes on to take on gender stereotypes in adoption law. Especially the stereotype that a single working woman is inherently less suited to raising a child than a stay-at-home biological parent.

High Court observes that this is contrary to the object and purpose of the JJ Act which is to make adoption easier in the larger interest of the child. According to the High Court, *JJ Act's section 61*¹⁹ takes note of this where it is stated that before passing an order of adoption, the Court must satisfy itself that the adoption is in the interest of the child and that all legal requirements have been met. Because the concerned authority had already vetted and approved the petitioner's adoption application, the District Court's rejection is said to be arbitrary, regressive, and legally unsustainable.

3. JUDICIAL PRECEDENTS RELIED UPON IN THE CASE

The petitioner's counsel referred to the case of *Sumed S/o Devidas Thamke v. State of Maharashtra, (2021) 6 Mah LJ 695*²⁰ to say that JJ Act is applicable to all adoptions, including with relatives, and that eligibility for adoption would have to be determined strictly in accordance with statutory provisions. In the case of Sumed Thamke, the Competent Court wrongly rejected the adoption application on an assumption that only orphans, abandoned and surrendered children are covered within the JJ Act and not any case where the biological parents are available and willing to give consent. The Hon'ble Bombay High Court had clarified in that case that the JJ Act governs all adoptions including relative adoptions and the competent court should not impose any extraneous conditions not provided under the act.

The same principle clearly applies to the present case because the rejection of the District Judge was based on an arbitrary and extraneous condition, and not on a strict interpretation of the statutory mandate. Counsel for Petitioner demonstrated that the JJ Act does not distinguish between categories of prospective adoptive parents except as expressly stated in the statute by relying on Sumed Thamke. In the current case, the Bombay High Court reinforced this stance and stated that a single working woman cannot be disqualified just because she is working.

4. IMPLICATIONS FOR FUTURE ADOPTION CASES

The ruling of the Bombay High Court has important effects on how people understand and use adoption laws in India.

¹⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 61.

²⁰ Sumed S/o Devidas Thamke v. State of Maharashtra, (2021) 6 Mah LJ 69.

- a) The case makes clear that courts have to look at *the application for adoption only on the basis of the statute and welfare and not be influenced by judicial prejudice or societal stereotypes*. Any judicial imposition of additional conditions that are not specified in the provisions is perverse and ultra vires and may be struck down. By affirming the statutory right of single individuals to adopt, the ruling ensures that unmarried, divorced, or widowed persons are not discriminated against due to their personal status. Family law in the country has traditionally been interpreted in a manner that is quite a conservative one.
- b) The ruling further upholds the *rights of single women, working professionals and individuals from non-traditional family set-ups to be eligible adoptive parents. This judgment protects the right of single persons, including women, to adopt a child which is a progressive step*. This ruling is remarkably important because provisions of family laws were traditionally interpreted on a two-parent model.
- c) The judgment conforms to the *international adoption law best practices*, particularly the UNCRC, to which India is a signatory, and which lays down the principles for the convergence of domestic adoption laws with the Convention's provisions. *The article 21 of the UNCRC*²¹ provides that all adoption laws must follow the best interests of the child' principle. The Bombay High Court too has upheld this in its judgment.

5. BALANCING CHILD WELFARE AND ADOPTION REGULATIONS

The court's ruling shows that we need to find a balance between following procedures and making sure the welfare of the child is being taken into account. The Adoption Regulations of 2017 and its successor the Adoption Regulations of 2022 provide a procedural framework so that every adoption is valid, above board, and in the child's best interests.

The High Court reiterated that once all the procedures are complete, the court should not put any further hurdles, and also directed the municipal authorities to change the birth certificate and fulfil adoption requirements order within four weeks while affirming that courts function best by enabling adoptions. This High Court order protected the rights of children by preventing

²¹ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, art. 21.

judicial disputes and unnecessary delays which would harm their best interests.

CONCLUSION

The rule laid down in the case of *Shabnam Jahan Moinuddin Ansari v. State of Maharashtra* strengthens the legal and statutory framework of the **Juvenile Justice Act** while upholding the rights of single adoptive parents. The High Court of Bombay's interpretation of the relevant statutes, permits Indian statutory adoption laws to be progressive and inclusive of all adoption and non-arbitrable. This ruling also *indicates that lower courts should avoid relying upon societal stereotypes when adjudicating adoption matters*. The High Court held that *child welfare* should be the prevailing principle, and that an adoptive parent's eligibility to adopt should rest solely on the validity of the legal adoption process and on the validity of the adoption, without an *inquiry into the social status or employment of the adoptive parents*.

The High Court also instructed the authorities to change the child's birth certificate pertaining to the adoption in four weeks. The Court also affirmed that even judicial intervention should act in support of the adoption process to assist and further streamline the process of adopting children, rather than to impede it.

This ruling will serve as crucial case in all adoption matters going forward, while also progressive towards gender-neutrality in adoption processes in India that are child-focused.