

STATES TOLD TO IMPLEMENT ADOPTION RULES

Relevant for: Developmental Issues | Topic: Rights & Welfare of Children - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

Parliament passed the Juvenile Justice (Care and Protection of Children) Amendment Bill last year. AFPNARINDER NANU

The Ministry of Women and Child Development has written to State governments, asking them to immediately implement the revised adoption rules requiring adoption orders to be passed by District Magistrates (DMs) instead of courts with effect from September 1.

The instructions come despite concerns raised over jurisdiction of DMs in civil matters such as inheritance and succession, as well as delays likely to be caused in cases where the court has already passed orders since September 1 or is likely to pass them shortly after having spent several months on the proceedings.

“All the cases pertaining to adoption matters pending before the Courts shall be transferred to the District Magistrates from the date of commencement of the Rules i.e. 01.09.2022,” Indevar Pandey, Secretary, Ministry of Women and Child Development, wrote to Chief Secretaries of States and Union Territories on Monday.

He urged for “immediate compliance of the same, so that there is no delay in passing the adoption orders.”

“The Centre should have clarified what happens to the orders that have been passed between September 1 and September 12, and how should CARA and DMs deal with such cases. Courts were not informed about the amendments and the Centre has also not yet notified Adoption Regulations, 2022 detailing the process to be followed by the DMs,” said Sindhu Naik, Member, Karnataka State Council For Child Welfare.

The amendment being contested is an amendment to the rules, and not the principal Act and therefore revising it shouldn't be a difficult task involving Parliament's nod, she pointed out.

“It transfers cases that are currently being heard in the district and civil courts to the DM, which should be challenged. The rules should not apply retrospectively, and should state that only new cases after September 1 should be brought to DMs for seeking adoption orders,” she added.

Experts have drawn attention to the concern that when a child turns 18 and his or her inheritance rights are contested before a court, a judicial order is more tenable to secure entitlements.

Parliament passed the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021 last year in order to amend the Juvenile Justice Act (JJ Act), 2015. These authorise District Magistrates and Additional District Magistrates to issue adoption orders under Section 61 of the JJ Act by striking out the word “court”.

This was done in order to ensure speedy disposal of cases and enhance accountability. The amendments to the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, were notified on September 1 and require all adoption cases to be transferred to the DM with immediate effect.

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