

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 15297 OF 2022**

Bharatiya Samaj Seva Kendra Pune through its Executive Director

...Petitioner

*Versus*

Women and Child Development Commission & Ors

...Respondents

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**Ms Radhika Samant**, *with Prajakta Jagtap & Akash Yadhav, i/b Pradeep Havnur, for the Petitioner.*  
**Mrs AA Purav, AGP**, *for the State.*

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**CORAM G.S. Patel &  
Neela Gokhale, JJ.**

**DATED: 14th February 2023**

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GAJAKOSH

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**PC:-**

1. The Petition is directed against the 4th Respondent, the Ministry of Home Affairs. The issue is narrow. An infant, one now named Atlas, was born to an Afghani couple on 8th September 2021. They surrendered the infant to the Petitioner Institute, the Bharatiya Samaj Seva Kendra, Pune (“**BSSK**”), the very next date, 9th September 2021. The 3rd Respondent is the Central Adoption Agency Resource Authority (“**CARA**”). Under the Juvenile Justice (Care and Protection of Children) Act 2015 (“**the JJ Act**”), BSSK is a recognised specialised adoption agency.

2. The issue is about the issuance of an Indian passport to Atlas. BSSK says he was born in India and is entitled to an Indian passport.. The declaration by the Child Welfare Committee of an infant as being free/fit for adoption follows a certain process. Atlas has not yet been so declared free/fit for adoption. According to BSSK, that process might itself be hindered simply for want of a citizenship document in Atlas's name. Specifically, adoptive parents from overseas will find it impossible to take the infant out of the country unless the infant has a travel document, namely a passport in his own name with a properly issued visa for the country of destination. This typically is the pattern of all foreign adoptions. So far, the Home Ministry has said that the declaration process is not impeded for want of a passport in the name of Atlas. That may be technically correct, but what is presented to us is an issue in anticipation of a future problem: Atlas, even if declared 'fit for adoption', will find no adoptive parents and will not successfully be adopted without a travel document. Section 8 of the Foreigners Act 1946 is invoked.

3. Since the legal issue appears to us to be narrow — and in all probability not contentious, one that can probably be resolved with some cooperation from all concerned — we request the assistance of Mr Aditya Thakkar or some other Advocate from the office of the Additional Solicitor General of India on behalf of the 4th Respondent, the Ministry of Home Affairs. While we direct notice to be formally issued to all Respondents including by courier, we also direct that a copy of the Petition along with an ordinary copy of this order be forwarded to the office of the learned Solicitor General.

4. List the matter on 1st March 2023.

**(Neela Gokhale, J)**

**(G. S. Patel, J)**