

(2017) 12 GUJ CK 0027
In the Gujarat High Court
Case No : 6395 of 2017

DHARMENDRASINGH RAMSEVKAR RAJPUT & ANR.

APPELLANT

Vs

STATE OF GUJARAT & ORS.

RESPONDENT

Date of Decision : 15-12-2017

Acts Referred:

[Juvenile Justice \(Care and Protection of Children\) Act, 2000](#), [Section 32](#), [Section 33\(1\)](#) - Production before Committee - Inquiry

Citation : (2017) 12 GUJ CK 0027

Hon'ble Judges : Abhilasha Kumari, B.N. Karia

Bench : Division Bench

Advocate : NASIR SAIYED, ?MUMTAZ SAIYED, ?PRAKASH G PANDYA, ?HARDIK SONI

Final Decision : Disposed

Judgement

1. This petition revolves around the predicament of an innocent ten-year old girl, Laxmi, who, in spite of having two sets of parents - biological and adoptive - finds herself in the Childrens' Home for Girls. The petition brings to the fore the unseemly tussle between the two sets of parents for Laxmi's custody, which question looms large before the Court. All considerations apart, the Court is conscious that its paramount duty is to ensure Laxmi's welfare.

2. Now, the facts :

3. This Habeas Corpus petition under Article-226 of

the Constitution of India has been preferred by the petitioners, who claim to be Laxmi's adoptive parents. A prayer is made to issue an appropriate Writ, order or direction upon respondents Nos.2 and 3, Police Inspector, Puna Police Station, Surat and Administrator/Manager, Childrens' Observation Home, Ramnagar, Surat, to produce the corpus of Laxmi before the Court. It is further prayed that the Court may ascertain Laxmi's wishes, order her release from the alleged illegal custody of respondent No.3, and hand over her custody to the petitioners.

4. The background facts, as stated in the petition are to the effect that, the petitioners have two sons but yearned for a daughter. Respondents Nos.4 and 5 herein, Laxmi's biological parents, lived in the same locality and were on good terms with the petitioners. Respondents Nos.4 and 5 were not in a position to take care of Laxmi. The petitioners offered to adopt her and respondents Nos.4 and 5 agreed to give their daughter in adoption to the petitioners. An Adoption Deed was prepared on 18.08.2008, which was signed by the petitioners and respondents Nos.4 and 5 and got notarized. The Adoption Deed is produced on record as Annexure-A. Laxmi was adopted by the petitioners when she was about fourteen months old. Since then, it is averred, the petitioners have brought her up with utmost love and affection. They got Laxmi admitted to a school and were providing her with a standard of education as per their capacity. According to the petitioners, they have been fulfilling all their

responsibilities as parents by giving Laxmi a proper upbringing. Laxmi's Report Card for Standard-III is annexed as Annexure-B to the petition.

5. It is stated that suddenly, in the afternoon of 27.06.2017, respondents Nos.4 and 5, along with an unknown girl, came to the house of the petitioners and demanded that Laxmi be handed over to them. The petitioners refused, explaining that they had adopted the child legally by executing an Adoption Deed by mutual consent. However, respondents Nos.4 and 5 got infuriated and started abusing petitioner No.2 (adoptive mother), threatening her of dire consequences such as implication in a false case. Laxmi was taken from the house of the petitioners and lodged in the Children's Home for Girls. Aggrieved thereby, the petitioners have approached this Court.

6. Certain relevant facts have not been narrated in the petition, but emerge from the papers of the investigation. They would be necessary to complete the narration and fill in the gaps. A Child Helpline, run by an NGO named Pratham, under the aegis of the Ministry of Women and Child Development, Government of India, received a telephone call on 28.06.2017, from one Shri Pratik Sharma, Advocate, on behalf of respondents Nos.4 and 5, Laxmi's natural parents. The Child Helpline was informed that Laxmi was allegedly being ill-treated by her adoptive parents. On the basis of this telephone call, Laxmi was taken from the house of the petitioners with the aid of the Police and produced before the Child Welfare Committee,

Surat. The Child Welfare Committee made an order of Short Term Stay under Section-33(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 ("the J.J. Act", for short), sending Laxmi to the Childrens' Home for Girls. This order was passed pending the report of the inquiry required to be held in the prescribed manner under Section-32 of the J.J.Act, with regard to a child in need of care and protection.

7. As per Section-32(2) of the J.J.Act, the inquiry under Section-33(1) is required to be completed within a period of four months of the receipt of the order, or within such shorter period as may be fixed by the Committee. It appears that the corpus was produced before the Committee on 29.06.2017, when the period of four months had not elapsed.

8. Rule was issued in the petition on 30.08.2017, making it returnable on 06.09.2017. Thereafter, the petition was listed from time to time. Laxmi was produced before the Court and we had occasion to speak to her at length.

9. Taking into consideration the aspect that Laxmi's welfare is paramount consideration as compared to the conflicting claims of the adoptive and natural parents this Court, vide order dated 11.09.2017, directed the Child Welfare Committee, Surat, to hold a thorough inquiry on all aspects of the matter, including the reason why Laxmi's custody was taken from the petitioners at the behest of respondents Nos.4 and 5. The inquiry was directed to be completed by

04.10.2017. Till then, it was directed that Laxmi would continue to reside at the Childrens" Home for Girls. The petition was posted for hearing on 05.10.2017.

10. The Chairman of the Child Welfare Committee submitted the report in a sealed cover as directed, vide a forwarding letter dated 29.09.2017. The sealed cover was opened and the report perused by the Court on 05.10.2017 and resealed. The Registry was directed to ensure that the sealed cover remained on the record of the petition.

11. Looking to the nature of the case where two sets of parents are demanding Laxmi"s custody and as the welfare and future of the child is at stake, this Court found that more intensive inputs would be required before a final decision could be arrived at.

12. This Court interacted with the parties extensively. Respondents Nos.4 and 5 stated certain things regarding the petitioners which were required to be verified from independent sources. The Court, therefore, requested the Principal District Judge, Surat, to make an inquiry into the background and antecedents of the petitioners and respondents Nos.4 and 5 on all aspects including whether any of them have a criminal background. The report was directed to be submitted within two months from the date of the order dated 05.10.2017. Till report was received, Laxmi was to continue to reside at the Childrens" Home for Girls.

13. Ms.Gita Gopi, Principal District Judge, Surat,

submitted the report vide letter dated 04.12.2017, which was put up before this Court on 06.12.2017. The report is an extremely extensive and comprehensive one, covering all relevant aspects minutely.

14. This Court has heard Mr.Nasir Saiyed, learned advocate for the petitioners, Mr.Hardik Soni, learned Additional Public Prosecutor for respondents Nos.1 to 3 and Mr.Prakash G. Pandya, learned advocate for respondents Nos.4 and 5.

15. Before advertng to the report submitted by the Principal District Judge, Surat, we may reopen the sealed cover to take note of the earlier report submitted by the Chairman, Child Welfare Committee, Surat, vide forwarding letter dated 29.09.2017. The crux of the said report is as follows :

- (i) The adoption of Laxmi by the petitioner s is not as per the guidelines of the Central Adoption Resource Agency (CARA). The adoption has not been done in accordance with law.
- (ii) The parties have executed a Deed of Adoption by mutual consent.
- (iii) The Child Welfare Committee, Surat, has detected a discrepancy in Laxmi's age, as reflected in the Adoption Deed, Birth Certificate and the Aadhar Card.
- (iv) On 29.06.2017, Laxmi's adoptive parents and biological parents were directed to remain present before the Child Welfare Committee. On that date there was an aggressive verbal duel between them for Laxmi's custody.

(v) As the petitioners and respondents Nos.4 and 5 stay in adjoining areas they frequently indulge in quarrelling amongst themselves for Laxmi's custody. Both sides have submitted applications to the Police Station in this regard.

16. On the basis of the above observations the Chairman, Child Welfare Committee, Surat, has opined that if Laxmi's custody is handed over to the petitioners, her safety would be endangered. It is stated that the subject-matter of the Adoption Deed is a legal issue to be decided by the Court. Till such time as the Court passes an appropriate order, it would be in Laxmi's interest to remain at the Childrens' Home for Girls.

17. The Court has interacted closely with Laxmi on two or three occasions. She is an exceptionally bright and talented child. The Superintendent of the Childrens' Home for Girls is all praise for her sweet and loving nature and informed the Court that Laxmi is very obedient, disciplined and helpful. Laxmi has a talent for drawing and painting. On a previous occasion when she visited the Court, she showed us pictures she had drawn and coloured, which are exceptionally good. Given the right opportunities, Laxmi can fulfil the latent potential within her, if provided with the right atmosphere and guidance. On each occasion the Court inquired from Laxmi regarding whom she would like to stay with. She has stated that she would like to reside with the petitioners, her

adoptive parents. Laxmi was only fourteen when she was given to the petitioners. She has known no other parents and does not see respondents Nos.4 and 5 in that light. Her desire to live with the petitioners is quite natural under the circumstances. The issue to be decided is not as simple as Laxmi's innocent and natural desire as the Court would have to look at all aspects to ensure her welfare and safety in all respects. It would have to be seen whether her desire to live with the petitioners would be conducive to her own welfare.

18. When she was living with the petitioners, Laxmi was studying in Standard-III. After she was sent to the Childrens' Home for Girls, her studies were interrupted. On one of the dates of hearing, the Court was informed that Laxmi would now be admitted to a school from the next academic session.

19. We may now revert to the report submitted by the Principal District Judge, Surat. The report is a detailed one. The Principal District Judge has sought reports from (1) Principal Magistrate of Juvenile Justice Board, (2) District Child Protection Unit, (3) Police Inspector of Puna Police Station and (4) Superintendent of Childrens' Home for Girls, Ramnagar, Surat. These individual reports have been placed on record separately and have also been extensively discussed in the report submitted by her.

20. The Principal District Judge has noted the opinions of different authorities in the report. The relevant extracts are reproduced hereinbelow :

"Opinion of the District Child Protection Unit, Surat:

The biological parents are ready to keep the child with them, but, during their visit of the child, she expressed her unwillingness to join her biological parents. The child is ready to stay with her adoptive parents. The residential area according to DCPU is not proper, atmosphere is not proper for child and on inquiry, they found that other members of the family are involved in criminal activities and therefore, DCPU found that it is not proper to give the child to the adoptive parents. But, the social welfare officer and the counselor of DCPU, Surat, expressed their opinion that, taking into consideration the future of the child, it would be proper to continue her studies by keeping her in the institution. (emphasis supplied)

Observation of the Police Inspector, Puna Police Station, Surat:

Thereafter, the P.I. Took the statement of Champaben Dharmendrasinh Rajput (P-2, adoptive mother) in the Rajivnagar slums, Umarwada, Sahara Darwaza, Surat city, and according to her, they have their own property and the bank balance of Rs.29,000/-. In their native, they have three houses and one temple and in all, there are 8 family members. The offence under NDPS and under the Prohibition Act for sale of Foreign Liquor

has been registered against her husband and a loot and assault case is filed against her son Kishan. She generates income of Rs.25,000/- by selling snacks on handcraft. The P.I. has stated that both the parties have good relations with their neighbours.

(emphasis supplied)

Observation of the learned Principal Magistrate, Juvenile Justice Board, Surat :

On asking about Laxmi, the learned Principal Magistrate was informed that when she was small, she used to stay with the petitioners and that she has not been given in adoption and as they were neighbours, Laxmi used to go at their house to play and after being two years old, she has been staying with them and they used to go to see her. She also informed that learned Principal Magistrate that the injury on the forehead of Laxmi is because of knife blow and when she asked her daughter about it, she informed that, the petitioners were beating her. The biological mother of Laxmi also informed the learned Principal Magistrate that the petitioner Dharmendrasinh has ill intention for Laxmi and that she had been physically abused by some boy in the locality and when she inquired about the boy, the petitioner lady informed that the girl is going to some boy's house and doing all the work of house and about the boy, she was informed that he had gone to village. The

biological mother stated that the petitioners are not taking care of her daughter, she is not safe in their house.

The Principal Magistrate had also inquired why they had not asked for the

custody of the child for such a long time, for that, she could not reply. The Principal Magistrate on 24.11.2017 saw Laxmi at Children Home for Girls. She expressed her desire to stay with the petitioners only and she does not intend to go along with her biological parents. On asking about the reason, for that, the learned Principal Magistrate observed that the child had not replied. For the inquiry on the forehead, the child said that she had fallen down from her bed and therefore, she got injured. The child had not given any other information to the learned Principal Magistrate. (emphasis supplied)

Opinion of the learned Principal Magistrate, Juvenile Justice Board, Surat :

The learned Principal Magistrate expressed her opinion that as biological parents want to keep the child, then it would be in the interest of the child that the custody of child be given to the natural parents.

(emphasis supplied)

Observation of Superintendent, Children Home for

Girls, Ramnagar, Surat :

Laxmi is abandoned daughter of the natural parents and adopted by the petitioners. As per the statement of the biological mother, they have prayed for the custody of the child. According to them (respondents Nos.4 and 5), Dharmendrasinh Rajput's family is not taking proper care of their daughter and they are beating her and are using her for transferring Ganja. There has been rape by the boy from neighbourhood. On counseling by Protection Officer and the Counselor, it was found that she was physically abused and that they had not received any information regarding the abuser. The adoptive mother Champaben has the knowledge regarding the abuser, the neighbour Manishaben had seen the abuser and on search, the said person could not be found and was not seen thereafter.

The Superintendent has noted that there is offence registered against Dharmendrasinh Rajput (P-1, adoptive father) under NDPS and Prohibition Act for selling foreign liquor and assault and loot case has been filed against Kiran Dharmendrasinh Rajput.

The Superintendent has observed that Dharmendrasinh Rajput (P-1, adoptive father) is in the business of Ganja. All the members of the family are addicted to pan and gutkha. Noting

the history of the family, she has stated that according to the statements of the neighbours, Dharmendrasinh's business of Ganja is going on since one year and he has been doing the business under the guise of pujari in the temple. The girl was abandoned while she was 14 months old by the natural parents and was adopted by them. (emphasis supplied)

Opinion of the Superintendent, Children Home for Girls, Ramnagar, Surat :

The Superintendent, Children Home for Girls, has given her opinion stating, that comparing the economical, social and criminal history of the petitioners and the biological parents and when the girl is to be given to one of the family, then according to her, the child should be given to the biological parents."

(emphasis supplied)

21. After considering the reports of the above authorities and making an independent inquiry by visiting the houses of the petitioners and respondents Nos.4 and 5 and after inquiring into the antecedents and background of the parties, the Principal District Judge, Surat, is of the following opinion :

"The reports of the (1)Principal Magistrate of Juvenile Justice Board, (2) District Child

Protection Unit, (3) Police Inspector of Puna Police Station and (4) Superintendent of Children Home for Girls, Ramnagar, are almost consistent, all have opined that the petitioners cannot be given the custody of child Laxmi.

The undersigned also feels that the child cannot have better future in the slum area, where the petitioners are in the business of selling Ganja and child Laxmi is also used in the business. While talking with Laxmi, it was found that selling Ganja is normal for her. The mother- petitioner is going out on the stall to sell snacks, there is no one to see, where the child is moving in the locality. The boys in the slum themselves are not getting healthy and respectful atmosphere, the child would be subject to physical abuse, and sexual harassment and assault. While the respondent No.4 and 5 have not sent their elder daughter to school, but, has got her married, the elder daughter is sending her children, which includes a girl child to school. The respondent Nos. 4 and 5's youngest son is eight years old, their two sons are having education in Marathi school. Child Laxmi was in standard four in Nagar Prathmik Sikshan Samiti school. School No.69, Prafulchandra Chaki school, near Bombay Market, Khadi Mohalla, Umarwada, the school is a Gujarati medium school. The younger children of Shakuntalaben are in Marathi medium school. Kailash and Shakuntalaben Birade may get

child Laxmi admitted in Marathi medium, as they may have obsession for Marathi language, which may uproot the primary and basic education, which child Laxmi has taken, but at the same time, they may think to admit her in Nagar Prathmik School of their area, as the education is free of cost, so her schooling will not be effected.

In the Children Home for Girls at Ramnagar, Laxmi was in a merry mood. She said she has made many friends there. The Superintendent by her report dated

30.11.2017 informed that, she had often asked for Leaving certificate of Laxmi from Champaben Rajput, as has not given much importance to it, the Superintendent herself applied for the Leaving certificate from School No.69, to get her admitted to Bhagini Nivedita Primary School No.168, near the Children Home for Girls.

As per the report of the Superintendent, there are 52 girls in the Home. Till Standard 8, they study in Bhagini Nivedita Primary School No.168 and for standard 9 and 10, they go to Lokmaniya Vidhyalaya, Motifali, Morabhagal, Surat.

At present, the undersigned is of a humble opinion that child Laxmi needs an atmosphere, where all the girls are going for studies, a disciplined routine. She cannot be given to petitioners, where she will grow in a house,

visited by drug addict. She has been subject to sexual harassment and without care and guidance in the slums, she may fall in the hands of abusers. Child Laxmi is in need of care and protection.

Equally, the respondent No.4 and 5 cannot be given the custody, as they may not give academic career to the child. That house has neglected Laxmi. So she will not feel secured.

Till eighteen, Laxmi can grow in Children Home for Girls. Where, education is must. Then she may decide whom she should consider as her family."

(emphasis supplied)

22. In the report, the financial capacities of both sets of parents have been indicated. It clearly emerges from the report that neither the petitioners, nor respondents Nos.4 and 5, can provide a suitable, safe and secure atmosphere for Laxmi, in which she can grow up and be nurtured in a healthy and protective atmosphere. Laxmi appears to have become a pawn between the two sets of warring parents, each one claiming her custody but neither being in a position to provide her a loving and secure atmosphere to live in. There are reports of the criminal antecedents of the petitioners and the physical abuse of Laxmi at their house. Laxmi's natural parents had thought it fit to hand over their own daughter to the petitioners

as though she is some kind of commodity, ostensibly because they were not able to look after her financially and the petitioners wanted a daughter. One wonders what other considerations may have passed.

23. It is not only the source of income or standard of living that is of prime importance in matters such as this one where the supreme consideration would be the overall welfare of the child. The petitioners are earning their living by selling Bread Pakodas, Samosas and Bhajiyas. Their daily income is stated to be Rs.3,000/- to Rs.4,000/-. They also get a monthly income of Rs.2,000/- to Rs.3,000/- from their tea-stall. Petitioner No.1 is stated to be a Pujari at a temple. Their standard of living is stated to be medium and as per the inputs from the neighbours, they can provide for the primary requirements of the girl. Insofar as respondents Nos.4 and 5 are concerned, it is stated that when they gave their daughter for adoption as they were not financially sound but now their financial condition has improved. They found out that the petitioners were ill-treating their daughter and the petitioners are engaged in selling "Ganja". They nurse an apprehension that Laxmi may be inducted into this illegal business. There is also the danger of Laxmi being exposed to sexual abuse, so they took the step of informing the Child Helpline, leading to Laxmi's removal from the house of the petitioners and her placement in the Childrens' Home for Girls.

24. Mr.Nasir Saiyed, learned advocate for the petitioners has submitted that Laxmi has been with the

petitioners since she was fourteen months old. The Deed of Adoption has been notarized. No complaint has been filed by any person, least of all respondents Nos.4 and 5, regarding the alleged ill-treatment meted out to Laxmi. She was being taken good care of by the petitioners and was studying in a school. One fine day, Laxmi's biological parents came with the Police and placed her in the Childrens' Home for Girls, for no reason. The petitioners have taken good care of Laxmi for the past ten years. She has suddenly been separated from them by respondents Nos.4 and 5, who had given her willingly to them. Her custody should, therefore, be restored to the petitioners, which is what the child desires.

25. On the other hand, Mr.Prakash G. Pandya, learned advocate for respondents Nos.4 and 5, has submitted that the said respondents are Laxmi's biological parents and feel for her safety and welfare. They had given Laxmi in adoption to the petitioners who had no daughter. At that point of time, their financial condition was not good. However, when they came to know that Laxmi is being ill-treated and there was danger to her physical safety, they approached the Child Helpline and she was placed in the Childrens' Home for Girls.

26. Mr.Pandya has fairly stated that though respondents Nos.4 and 5 would like to have the custody of their daughter, however, this Court may pass an appropriate order taking into consideration the paramount interest and welfare of the child.

27. Mr.Hardik Soni, learned Additional Public Prosecutor has submitted that the petitioners have criminal antecedents, which aspect has surfaced from the papers of the investigation. To hand over the custody of the child to the petitioners, therefore, may not be in her best interest.

28. Learned Additional Public Prosecutor has further submitted that the Deed of Adoption is not a legally valid one. It is in the nature of an agreement that has been notarized and has no value in the eyes of law. He has further submitted that the corpus has not stayed with her biological parents at all and does not desire to stay with them. If the Court considers handing over her custody to her biological parents, the present petition may be kept pending. Ultimately, the Court would take into consideration the welfare of the child.

29. This Court has accorded deep and thoughtful consideration to the facts and circumstances of the case, the reports submitted by various authorities including the report of the Principal District Judge, Surat.

30. Considering that Laxmi was given to the petitioners when she was fourteen months old, it is not unnatural that she would desire to live with them. She has known the petitioners as her parents and does not see respondents Nos.4 and 5 in that capacity. She has had no immediate contact with her natural parents who chose not to look after her but handed over her to the petitioners, purportedly in adoption, by executing

an Adoption Deed the legality of which would most probably not stand the scrutiny of law.

31. Respondents Nos.4 and 5 have four children. They could look after the other children but chose to give Laxmi away. They have suddenly developed feelings of affection and concern for their daughter whom they had handed over to the petitioners as though she was a commodity to be abandoned and claimed, to suit the expediency of the moment. Now Laxmi does not want to live with her natural parents and one cannot blame her for this.

32. It has emerged from the report of the learned Principal District Judge, Surat, that there are offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act", for short) and the Gujarat Prohibition Act, 1949, for the Sale of Foreign Liquor against petitioner No.1, the adoptive father of Laxmi. Loot and assault cases have been filed against his son, Kishan. It has also emerged that petitioner No.1 is stated to be selling "Ganja".

On 30.11.2017, the Principal District Judge, Surat, visited Laxmi in the Childrens' Home for Girls. She made inquiries from her and found as below :

"When inquired about the business of Ganja of her father, she said that her father is selling Ganja at Rs.20/- and that she was also selling small packets at Rs.20/-. She also stated that her father was consuming Ganja and when her mother would remain at home, she would sell Ganja.

On inquiring about the physical abuse, the child said that a boy had taken her 10 rupees and had told her that he would give if she comes to his house. The child told the undersigned that at that time, the said boy had touched at her waist and when inquired about the boy removing her underwear (nicker) she stated that when she had gone to a shop, a boy had removed her chaddi and a neighbouring

aunty had seen him and she started shouting and so, her brother had come there and had beaten the boy, who thereafter, ran away from the place. When inquired about her injury at the eyes, she said that she had fallen down from the bed and on asking about the injury on hand, she said that she had gone to throw waste and at that time, while playing with boys, as she got late,

her mummy had beaten her as she was playing with boys."

33. From the above it is clear that petitioner No.1 has criminal antecedents and Laxmi was unknowingly being used as a carrier and made to sell packets of "Ganja" at Rs.20/-. Laxmi has informed the Principal District Judge that her father used to consume "Ganja". There is more than a hint of physical abuse and a distinct possibility that Laxmi may be open to physical assault if she is put into the custody of the petitioners. She has herself narrated the incident reproduced above regarding this aspect.

34. Laxmi is now ten years old and is a growing girl. Soon she would attain the age of puberty. She requires a safe, secure and protective atmosphere to live in, where her talents would unfold and her physical safety would be ensured. After perusing the material on record, this Court is of the considered view that Laxmi would not be safe in an environment where "Ganja" is purportedly used and sold and where she may be a target for physical molestation.

35. This Court is of the firm view that the paramount welfare of the child dictates that her custody may not be given to either the petitioners (adoptive parents) or respondents Nos.4 and 5 (biological parents).

36. At present, Laxmi has made several friends in

the Childrens" Home for Girls. She is a bright and talented child who has great potential that is required to be tapped, nurtured and guided, so that she can find her own place in the world. The Superintendent of the Childrens" Home for Girls has already applied for the School Leaving Certificate from School No.69, where she used to study, so that she can be admitted to the Bhagini Nivedita Primary School No.168, near the Childrens" Home for Girls. At present, there are fifty-two girls in the Home. Till Standard-VIII they are made to study in Bhagini Nivedita Primary School No.168. For Standards-IX and X, they go to Lokmaniya Vidhyalaya, Motifali, Morabhalgal, Surat. If Laxmi continues to stay at the Childrens" Home for Girls, she would be in the company of other girls who are also pursuing their studies. She would live a sheltered and disciplined life, under proper care, protection and guidance. Laxmi is too young to understand her own ultimate welfare. For her, the home of her adoptive parents is her home. Had the atmosphere in the petitioners house been conducive, her desire could have been considered. However, the material on record is quite shocking and deters us from doing so. Laxmi"s desire will have to be subservient to her own welfare.

37. Taking into consideration Laxmi"s safety and welfare, we direct that she shall reside at the Childrens" Home for Girls, Surat, till she attains the age of eighteen years. There, she will be provided with proper education, care, protection and medical

facilities, as required. When Laxmi attains the age of eighteen years she will be free to decide whether she wants to reside with her biological parents (respondents Nos.4 and 5) or her adoptive parents (petitioners), or whether she wants to chart her own course in life.

38. The Superintendent of the Childrens' Home for Girls shall ensure that apart from her studies, Laxmi is given vocational training in any sphere that she shows an interest in, so that her latent talents can blossom. In case of any requirement, the Superintendent of the Childrens' Home for Girls, Surat, is at liberty to approach this Court through the office of the learned Public Prosecutor.

39. The report of the Chairman, Child Welfare Committee, Surat and that of the Principal District Judge, Surat, shall remain in the safe custody of the Registry of this Court.

40. Subject to the above directions, the petition stands disposed of. Rule is discharged.