

(2005) 12 JH CK 0018

Jharkhand High Court

Case No: Writ Petition (S) No. 5848 of 2005

Suresh Kumar Nishad

APPELLANT

Vs

Central Coalfield Limited and
Others

RESPONDENT

Date of Decision: Dec. 5, 2005

Acts Referred:

- Hindu Adoptions and Maintenance Act, 1956 - Section 10

Citation: (2006) 2 JCR 343

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Rajiv Ranjan and Abhay Kumar Mishra, for the Appellant; Ananda Sen, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

Heard the parties.

2. The petitioner prays for quashing the order (as contained in letter dated 16.3.2004 issued by the Personnel Manager, Bokaro Colliery, whereby the claim of the petitioner for appointment as an adopted son of late Sukhiya Mallahin, ex employee of the colliery has been denied.

3. Learned counsel appearing for the petitioner submitted that petitioner was legally adopted by late Sukhiya Mallahin by virtue of registered deed of adoption dated 7.1.1993.

4. From perusal of the record, it appears that the date of birth of petitioner is 12.1.1972 and in 1993 when the adoption deed was executed he was 21 years old. According to Section 10 of the Hindu Adoption and Maintenance Act, 1956 a person

can be taken in adoption only when, besides other conditions he or she has not completed the age of 15 years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of 15 years being taken in adoption.

5. Learned counsel appearing for the petitioner submitted that the petitioner was adopted/much before 1993 which has been incorporated in the adoption deed. The question whether the petitioner was adopted much before 1993 is a question of fact which cannot be decided by this Court in exercise of writ jurisdiction.

6. Admittedly, when the registered deed of adoption was executed, the petitioner was 21 years old. In that view of the matter, respondents have rightly doubted the correctness of deed of adoption. This Court without adjudicating the question cannot declare the adoption deed as legal and valid. Consequently, no relief can be granted to the petitioner. This writ petition is dismissed.