

No.31/59/2016-CW-I  
Government of India  
Ministry of Women and Child Development  
(Child Welfare-I Section)

Shastri Bhawan, New Delhi  
Dated:- 27<sup>th</sup> July, 2018

ORDER

Whereas Constitution of India accords the highest priority to children and assures a safe, dignified and a life full of growth opportunity to all children.

2. Whereas the Government is committed to ensure the welfare and protection of children for their wellbeing and overall development.

3. And whereas the cases of children who were taken away by one of the spouse without permission of the other spouse due to marital discord or due to domestic violence, etc. from other countries to India or vice versa are being reported.

4. And whereas such situation may be adversely affecting the best interest of the children and thereby violating their rights of development and protection.

5. And whereas the Section 3(iii),(iv) and (v) of the guiding principles of Care and Protection of Child under the Juvenile Justice(Care and Protection of Children) Act 2015 provides that all decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop to full potential. The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

6. And whereas Section 13 (a) the Commissions for Protection of Child Rights Act 2005(CPCR) provides that NCPCR shall examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.

7. Now, Therefore in pursuance of power conferred by the Central Government under Section 33(1) of the CPCR Act 2005, the Government hereby directs National Commission for Protection of Child Rights (NCPCR) to constitute a Mediation Cell in NCPCR to resolve the cases of children who were taken away by one of the spouse without permission of the other spouse due to marital discord or due to domestic violence from Overseas countries to India or vice versa and preparing a Parental Plan taking into account the best interest of the child.

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8. (a). The composition of the Mediation Cell in NCPCR is suggested as follows:

- i) Chairperson, NCPCR - Chairperson
- ii) Member, NCPCR(in the field of Laws relating to children) - Member
- iii) Member, NCPCR(in the field of child psychology or sociology) - Member

(b). NCPCR may engage one practicing Child psychologist and one representative from NALSA who has been working in the field of child custody matter or assistance of any expert whose services are felt necessary, for participating in the proceedings of the said Mediation Cell in NCPCR. These experts will be entitled for TA/DA/Sitting fees as admissible under extant rules. NCPCR may also engage the services of any person(s) for Secretarial Assistance or otherwise to the Mediation Cell for developing a Parental Plan. The expenditure incurred towards TA/DA/ Sitting fees/ remuneration, etc. will be met out of the budgetary provision made available to the NCPCR.

(c). The Mediation Cell may engage with the representative of the local mission of the country where the husband/wife involved in the case is residing. The representation of the Foreign Mission/Embassy will be at the discretion of that Mission/Embassy.

9. (a) Either husband or wife or the present custodian of such child, or Child her/himself can file an application to the INA addressed to Section Officer, Child Welfare-I Section, Room No-628, A wing Shastri Bhawan, New Delhi or send it through e-mail- [ina.childcustody-wcd@nic.in](mailto:ina.childcustody-wcd@nic.in) as per prescribed application format (enclosed).

(b). All the cases pertaining to such matters will be taken up by the Integrated Nodal Agency (INA) in the Ministry of Women and Child Development which stands constituted vide Ministry's O.M. No. 25/86/2017-WW dated 20.12.2017(copy enclosed). Depending on the facts of the cases, the INA will refer the matter to the Mediation Cell of NCPCR for developing a Parental Plan.

(c). The Mediation Cell in NCPCR for developing a Parental Plan will call concerned parties physically or through video conferencing so as to attempt to get the matter resolved by mutual consent.

(d). The Mediation process may be completed within six months of the receipt of application, failing which the Mediation process shall be taken to be over. However, INA may refer the case back to Mediation cell for one Review, while recording the reason for it.

(e) Mediation Cell will furnish a report to INA after completion of the Mediation process.

(f). The INA will issue a speaking order on the basis of the report furnished by NCPCR. This order will be made available to the parties involved in the case as well as to Ministry of External Affairs, Ministry of Home Affairs, CW-I Division, MWCD, and concerned Embassy.



10. The proceedings and decisions of the INA and Mediation Cell neither shall be treated as interference in the Court proceeding in the court of law, if any nor will make the INA and Mediation cell liable to any legal action against them for such decision.

11. The Mediation process shall be treated as compliment to the legal procedure and not as a substitute.

12. This issues in consultation with Department of Legal Affairs and Legislative Department, Ministry of Law & Justice and has the approval of Hon'ble Minister, WCD.

*Shailendra Kureel*  
(Shailendra Kureel)

Under Secretary to the Govt. of India  
Tel No. 23388506

Encl:- As above.

To

1. All Members/Convener of INA, MWCD.
2. Chairperson, National Commission for Protection of Child Rights, with request to constitute a Mediation Cell as mentioned in para 7 above.
3. PS to Minister, WCD/PS to MoS, WCD.
4. PPS to Secretary, WCD.
5. PPS to Additional Secretary (AT).
6. All Bureau Heads.
7. Director, NIC with request to upload the order on website of MWCD.

*Shailendra Kureel*  
(Shailendra Kureel)

Under Secretary to the Govt. of India

275632/2018/CW-I

Application format

1. Name : \_\_\_\_\_
2. Postal Address : \_\_\_\_\_
3. E-mail address/Mobile No./Telephone No. : \_\_\_\_\_
4. Occupation : \_\_\_\_\_
5. Name of Child whose Custody is being sought for : \_\_\_\_\_
6. Relation with the child : \_\_\_\_\_
7. Age of the child : \_\_\_\_\_
8. Duration of stay of child in the country of her/his birth : \_\_\_\_\_
9. Duration of stay in the country where the child has been taken by either parent : \_\_\_\_\_
10. Whether any police case/Court case is pending in either of the country, if so details thereof : \_\_\_\_\_
11. Details of the other parent of the child:-
  - i. Name : \_\_\_\_\_
  - ii. Postal Address : \_\_\_\_\_
  - iii. E-mail Address : \_\_\_\_\_
  - iv. Mobile No/ Telephone No. : \_\_\_\_\_
  - v. Occupation : \_\_\_\_\_
12. Details of the contact persons in the Embassy/Mission concerned : \_\_\_\_\_
13. Details of the passport (of both parents and child) and photocopy thereof : \_\_\_\_\_
14. Relief applied for \_\_\_\_\_

Signature of the Applicant

Date:- \_\_\_\_\_

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46/176

168/2018/WW

44/4

198865/2017/WW

No.25/86/2017-WW  
Government of India  
Ministry of Women & Child Development  
(WW Division)

'A' Wing, Shastri Bhawan,  
New Delhi-110001  
Dated : 20<sup>th</sup> December, 2017

OFFICE MEMORANDUM

Subject : Constitution of Integrated Nodal Agency (INA) by MWCD for NRI marital disputes.

The undersigned is directed to say that a meeting was held under the chairpersonship of Hon'ble EAM on 06.11.2017 to discuss and deliberate on the Expert Committee Report pertaining to NRI marital dispute issues. In pursuance of the decision taken in the meeting vide MEA's OM No.OI-19013/268/2017/OIA-II, dated 13.12.2017, Integrated Nodal Agency (INA) is constituted with the following members :

- |   |            |
|---|------------|
| 1. Secretary, MWCD                            | - Chairman |
| 2. Joint Secretary, MWCD                      | - Member   |
| 3. Joint Secretary (Home), MHA                | - Member   |
| 4. Joint Secretary (OIA-II), MEA              | - Member   |
| 5. Joint Secretary (Legal), M/o Law & Justice | - Member   |
| 6. Joint Secretary (Foreigners), MHA.         | - Member   |
| 7. Deputy Secretary, MWCD                     | - Convener |
2. This issue is with the approval of the Competent Authority.



(M. K. Prabhat)

Under Secretary to the Government of India  
Tel. : 011-23381970

To

All concerned.



New Delhi, dt. 29<sup>th</sup> August, 2018

ORDER

In pursuance of the directions given by MWCD vide GOI Order No.31/59/2016-CW-I dated 27<sup>th</sup> July, 2018, NCPCR sets up a Mediation Cell consisting of following:-

- |       |  |   |             |
|-------|--|---|-------------|
| (i)   | Chairperson, NCPCR   | - | Chairperson |
| (ii)  | Member, NCPCR<br>(in the field of Laws relating to Children) | - | Member      |
| (iii) | Member, NCPCR<br>(in the field of child psychology)          | - | Member      |

2. For the smooth functioning of Mediation Cell, it is also ordered to engage the following specialists in the respective fields:-

- |       |                               |   |                    |
|-------|-------------------------------|---|--------------------|
| (i)   | Practicing Child Psychologist | - | On part-time basis |
| (ii)  | Representative from NALSA     | - | On part-time basis |
| (iii) | Advocate                      | - | On part-time basis |
| (iv)  | Expert (If necessary)         | - | On part-time basis |

3. Shri Raman Kumar Gaur, Senior Consultant, NCPCR will be Convener to Mediation Cell who will liaise and coordinate with the INA in MWCD, Ministry of Home Affairs and Ministry of External Affairs and will also convene the meetings of the Mediation Cell upon receipt of such proposals from INA.

4. All the cases pertaining to marital discord will be taken up by the Integrated Nodal Agency (INA) in the MWCD which stands constituted vide Ministry's O.M No.25/86/2017-WW dated 20.12.17 (Copy enclosed). Depending on the facts of the cases, the INA will refer the matter to the Mediation Cell of NCPCR for developing a Parental Plan.

5. The Mediation Cell shall develop the Parental Plan by calling the concerned parties in person or through video conferencing so as to attempt to get the matter resolved by mutual consent.

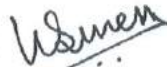
6. The Mediation Cell will furnish a report to Integrated Nodal Agency after completion of the mediation process. The mediation process shall be completed within six months of the receipt of application, failing which the mediation process shall be deemed to have been lapsed/over. However, INA in its discretion may refer the case again to Mediation Cell. A final speaking Order on the basis of the report furnished by the NCPCR shall be issued by INA. This Order shall be made available to all the parties involved in the matter alongwith the Ministry of External Affairs, Ministry of Home Affairs and the concerned Embassy/Foreign Mission.

7. The proceedings and the decisions of the INA and the Mediation Cell shall neither be treated as an interference in the proceedings in the Court of Law nor will make the INA and the Mediation Cell liable to any legal action against them for such

recommendations/decisions. The mediation process shall be a complement to the legal procedure and not be treated as substitute.

8. Application form for receiving the applications from the concerned parties is at Annexure.

9. This issues with the approval of the competent authority.

  
(G. Suresh)  
Assistant Director

No.32-136/2018/NCPCR/LC/Mediation Cell


Dated: 29.08.2018

Distribution:

- |    |                       |   |                             |
|----|-----------------------|---|-----------------------------|
| 1. | Smt Stuti Kacker      | - | Chairperson, Mediation Cell |
| 2. | Shri Yashwant Jain    | - | Member, Mediation Cell      |
| 3. | Dr. R.G. Anand        | - | Member, Mediation Cell      |
| 4. | Shri Raman Kumar Gaur | - | Convener, Mediation Cell    |

Copy for Information to:-

1. Member (P.K), NCPCR
2. Member (R.K), NCPCR
3. MS, NCPCR
4. JS(OIA-II), MEA
5. JS(Home), MHA
6. JS (Foreigners), MHA
7. JS(CW), MWCD
8. JS(Legal), M/o Law & Justice
9. Advisor, NCPCR
10. DS(CW), MWCD
11. Director, NALSA
12. Registrar, NCPCR
13. Senior Consultants, NCPCR
14. US(CW-I), MWCD – w.r.t GOI, MWCD Order No.31/59/2016-CW-I dt. 27<sup>th</sup> July, 2018 for information and necessary action.
15. US(WW), MWCD–w.r.t MWCD O.M No.25/86/2017-WW dt. 20<sup>th</sup> December, 2017
16. PS to CP, NCPCR
17. PPS to Member (YJ), NCPCR
18. PPS to Member (R.G.A), NCPCR
19. PPS to Member (P.K), NCPCR
20. PPS to Member (R.K), NCPCR
21. IT Cell, NCPCR for uploading the Order on the Commission's Website
22. NCPCR Notice Board

  
(G. Suresh)  
Assistant Director