

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION**

**FOREIGN ADOPTION PETITION NO. 32 OF 2017
WITH
JUDGE'S ORDER NO. 139 OF 2017
IN
FOREIGN ADOPTION PETITION NO. 32 OF 2017**

....

MSWC, Asha Sadan, Asha Sadan Marg, Umerkhadi
through Mrs. Farida Patel ...Petitioner.

Vs.

Joshua Nolen Smith an American
National & Anr. ... Proposed
Adopters.

....

Smt. Lalita Jaya Raj, for the Petitioner.
Mr. Hareendran, Scrutiny Officer, ICSW, present.

....

**CORAM : B.P. COLABAWALLA, J.
DATED : JULY 5, 2017**

P.C. :

This is a Petition for adoption of a female minor Naysa, born on 13th June, 2016 016 by American Nationals. The biological mother of the said minor relinquished her daughter before the Child Welfare Committee, Umerkhadi, Mumbai on 8th July, 2016 and the child's safe custody was given to the Petitioner institution Asha Sadan as per the order of the Child Welfare Committee dated 8th July, 2016 under

Section 31 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The representation of the Indian Council of Social Welfare (ICSW) is tendered before me and taken on record and marked as “X” for identification.

2 The Child Welfare Committee, Mumbai has issued a Certificate declaring the child legally free for adoption vide its order dated 22nd November, 2016. In the said order, it is stated that in exercise of the powers vested in the Child Welfare Committee Mumbai under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the said minor Naysa, date of Birth 13th June, 2016, placed in care of Specialized Adoption Agency Asha Sadan (Petitioner), is declared legally free for adoption on the basis of the following:-

- (i) inquiry report of the Social Worker has been submitted.
- (ii) deed of Surrender has been executed by the biological mother of the child before this Committee on 8th July, 2016.
- (iii) by publishing photographs in two news papers.

3 The Free for Adoption Order and commitment order is on record along with the undertaking / affidavit filed by the Petitioner.

4 The Central Adoption Resource Authority (CARA), New Delhi has also issued a No Objection Certificate dated 9th June, 2017 to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993.

5 The proposed adopters are American Nationals residing at Alabama, USA both aged about 26 years. They have been married for the last four years with no biological children. The Motivation for Adoption by the proposed adopters and the Passport copies of the proposed adopters is also on record. The health report of the proposed adopter states the health of the parents does not disqualify them in parenting a child in any way. Their HIV and HBsAg test findings are negative.

6 The first proposed adopter is working as a Clinic Director with BenchMark Rehab Partners/Rehab Employees Services, LLC since 6th June, 2016 and his current annual salary is US\$ 67,000. The second proposed adopter is working as an International Social Worker with Lifeline Children's Services since 13th May, 2013 and her annual salary

is US\$ 30,399.84. The Income Tax Return (ITR) of the year 2016, 2015 and 2014 as well as the Bank references, Certificate of Income and Property and proof of resident are on record.

7 The Childcare Arrangement Plan by the proposed Adopters is also on record and states as follows:

“We will both travel to India to complete the adoption. Joshua will take approximately two weeks off from work to help facilitate initial bonding and attachment. Meagan will take a minimum of three months off from work. She desires to reduce her work to part-time or work from home once we are home with Naysa. Meagon will rely on her moth or mother-in-law to provide children for approximately one to two days a week if she goes into the office to work.”

8 The child security letter dated 26th April, 2017 from the parents of second proposed adopter to look after the proposed minor in case of any unforeseen mishap to the proposed adopters is also on record.

9 The home study report dated 14th February, 2017 by the authorities of Agape of Central Alabama, Inc. USA is on record and it states that the couple has met all requirements for adoption in the State of Alabama. Mr. & Mrs. Smith meet or exceed the requirements for adoption as required by India in regards to age, length of

marriage, number of children in household, health and physical fitness, criminal clearance, education, employment, income, ability to parent an orphan and are willing to comply with post adoption requirements. Mr. & Mrs. Smith are approved by the Social Worker to adopt one child of either gender, between the ages of 0-3 years old at the time of matching. The family is approved to adopt a child who has medical special needs.

10 The Approval Notice dated 6th April, 2017 from the Department of Homeland Security is on record and states that the Approval expiration date is 10th June, 2018. The “Article 5” Letter from Embassy of the United States of America dated 26th May, 2017 has been tendered before me today and the same is marked as “X-1” for identification. This letter states that on the information available the United States Competent Authority has determined that the proposed adopters are eligible and that the proposed minor Naysa will be authorized to enter and reside as a permanent in the United States, following the adoption by the proposed adopters and their presentation of declared documentation.

11 The Medical Examination Report dated 29th November, 2016 of the proposed minor states “Child is HIV Positive and being given Septran”. This report has also been counter signed by the Proposed Adopters.

12 The H.I.V. report of the proposed minor dated 3rd October, 2016 certifies the case as H.I.V Positive. A separate letter of Acceptance from the proposed adopters is on record and it states they are aware the child Naysa is a special needs Child requiring attention for HIV, and are willing to adopt this child with the knowledge of her condition.

13 The consent and willingness and undertakings from the prospective adoptive parents are on record and the undertaking dated 25th April, 2017 from the Foreign Adoption Agency “Lifeline Children's Services, USA” is on record. The copy of General Power of Attorney dated 26th April, 2017 in favour of the authorized functionary of the Petitioner institution is on record.

14 The Indian Placement Agency (Asha Sadan, Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid till 31st December, 2018.

15 Looking at all these documents that are before me, I think it would be in the interest of the child if she is adopted by the proposed adopters. I, therefore, do not find any impediment in granting the reliefs sought in the Petition.

16 In view of this, the Petition is allowed in terms of prayer clauses (a) (b) and (c) and the Judges Order for the minor is separately signed.

(B. P. COLABAWALLA, J.)