

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 55 OF 2017
WITH
JUDGE'S ORDER NO.235 OF 2017**

St. Catherine's Home

and

...Petitioner

1. Glen William Davenport and

2. Melissa Hart Davenport

...Proposed Adopters

Mr. Rakesh Kapoor, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare,
present.

**CORAM : S.C. GUPTE, J.
(IN CHAMBERS)**

DATED: 15 NOVEMBER, 2017

P.C. :

Heard Mr. Rakesh Kapoor, learned Counsel for the Petitioner and Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare (ICSW).

2 This petition seeks adoption of a female minor Riya. The minor, born on 13 November 2014, was found abandoned by Amravati Police Station on 23 November 2014. Custody of the minor was given to the Missionaries of Charity's Ish Daya Shishubhavan at Amravati on 28 November 2014 in accordance with the order of the Child Welfare Committee, Amravati under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2000.

3. The Child Welfare Committee, Amravati (hereinafter referred to as "CWC") has issued order dated 22 April 2015 declaring the child to be legally free for Adoption on the basis of details furnished through Inquiry by Social Worker and the Specialized Adoption Agency. The order is produced before the Court. The minor was transferred to the branch institution Missionaries of Charity, Church Road, Mumbai on 29 July 2016 due to the child's special needs status as she was suffering from Global delay and impending spasticity due to status Eccephilopathy. The minor was, thereafter, again transferred to the Petitioner institution on 31 March 2017 for her better rehabilitation through adoption. The Free for Adoption order and the transfer order are placed on board.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 8 September 2017, as per the applicable 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. The relevant undertaking/affidavit of the Petitioner is placed on record.

5. The proposed adopters are American Nationals residing at Knoxville, TN, U.S.A, aged about 35 and 29 years, respectively. They are married for the past 10 years with one biological son, Riley James, born on 04/12/2013. The birth certificate of the son, together with the motivation letter and passport copies of the proposed adopters are placed on record. Also placed on record is the Health Report of the proposed adopters, which shows sound physical and mental condition with negative HIV and Hepatitis B tests. The proposed adoptive parents are both working in the U.S.A. Their respective income, financial condition and property statements

have been placed on record. These show their capacity to take care of the minor proposed for adoption.

6. The child care plan from the proposed adopters is also placed on record and perused by the court. Home Study report conducted by “Bethany Christian Services, TN, U.S.A”, is placed on record. The report of 22 March 2017 indicates the various parameters considered by the agency for assessing the suitability of the prospective adoptive parents for the proposed adoption. The report goes into various particulars such as the family background information, attitude of the prospective adoptive parents towards the proposed adoption, their background, psycho-social assessment, financial position, the description of their home and neighbourhood, their marital relationship and various other considerations from the point of parenting of the adopted child as also their preparation and training for such adoption.

7. The requisite certificate dated 05/09/2017 from the Embassy of the United States of America and Provisional Approval Notice dated 21/08/2017 from the Department of Homeland Security are placed on record.

8. The medical examination report of the minor indicates a medical condition of “Spastic diplegia of the lower limbs”. It, however, appears that the child has otherwise had a normal mental development and physical milestones. The proposed adoptive parents have perused and countersigned the report, and conveyed their acceptance of the minor in adoption after such perusal. The adoptive parents have also furnished an undertaking to take care of further treatment of the child.

9. The other requisite compliances are found in order. The undertaking of the Authorised Foreign Adoption Agency “America World Adoption” U.S.A., Special Power of Attorney of the proposed adopter in favour of the Petitioner Institution and recognition of the Indian Placement Agency are all placed on record.

10. The scrutiny report submitted by the ICSW, through Mr.O. Hareendran, Scrutiny Officer, dated 24 October 2017, is taken on record marked “X”.

11. In view of the foregoing circumstances, and considering the compliances noted above, this Court is of the view that the petition should be allowed.

12. The petition is, accordingly, allowed in terms of prayer clauses (a), (b) and (c). A Judge's Order in this behalf is signed to that effect. The proposed adopters shall deposit a sum of Rs.60,000/- with the Prothonotary and Senior Master of this Court in accordance with the order/practice note issued by the Court.

13. The amount of Rs.60,000/- shall be refunded along with accrued interest after two years subject to the proposed adopters submitting the following documents:

(i) Updated school reports, if available;

(ii) Follow up Report on the adjustment of the child in her new home;

- (iii) Formal adoption confirmation from the authorities in the foreign country, and citizenship and naturalization documents;
- (iv) Report from the Indian Council of Social Welfare certifying updated scrutiny of compliance of aforementioned documents;
- (v) Health report of the child;
- (vi) Proof of investment of Rs.3,50,000/;
- (vii) Photograph of the Child showing her progress; an audio-video clip of the child both in the school and at home, and especially in the company of other children.

(S.C. GUPTE, J.)