

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 34 of 2019

WITH

JUDGE'S ORDER No. 100 of 2019

St. Catherine's Home, part of St. Catherine's]
Society at Veera Desai Road, Andheri (West),]
Mumbai 400 058] Petitioner.

And

1) Milind Vijaykumar Potdar, age 47 yrs.]
2) Poonam Milind Potdar, age 42 yrs.] Prospective
Adoptive parents.

Mr. Rakesh Kapoor i/by M/s Rakesh K.L. Kapoor & Co. for the
petitioner.

Mr. O. Harendran, Scrutiny Officer of ICSW.

CORAM : B. P. COLABAWALLA, J.

DATED :- 13th June, 2019.

P.C. :-

1. This Adoption Petition is for adoption of a male minor
“Tejas” who was born on 16th November, 2018. The biological mother
of the minor surrendered him to the Child Welfare Committee,
Mumbai Suburban District, Mumbai on 26th November, 2018 and the
safe custody of the minor was given to the petitioner institution as

per the safe custody order dated 26th November, 2018 under Section 36 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the Juvenile Justice Act”) read with Rule 18 (4) of the Model Juvenile Justice Rules, 2016. The safe custody order can be found at page No. 15 of the petition. The representation of the Indian Council of Social Welfare (ICSW) is treated before me and taken on record and is marked “X” for identification.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, the Child Welfare Committee, Mumbai City II has declared that the proposed minor Tejas is a child legally free for Adoption as on 1st February, 2019. A Certificate declaring the child free for adoption is also on record of this Court at page No. 14.

3. The proposed Adopters are residing at Nashik and they are aged 47 and 42 years respectively, having been married for the past 16 years (10th March, 2003). They have no biological children due to medical reasons. The Motivation Letter from the prospective adoptive parents is also on record. It is further stated in the Motivation Letter that they met Parshuram S. Kankekar who is their family friend since more than twenty years who informed them about adopting a child and shared his experiences in that regard. It

is then that the prospective adoptive parents decided to go for adoption and therefore seek to adopt the minor “Tejas”. This Motivation Letter is at page 30 of the paper book.

4. The decision of the Adoption Committee dated 18th March, 2019 duly signed by the Prospective Adoptive Parents, Superintendent of the petitioner-institution, DCPU Officer, Pediatrician and Senior In charge of Nursery is on record at page No. 13. The affidavit of the Chief Functionary of the petitioner is also on record at page Nos. 92 to 94.

5. The medical reports of the proposed adoptive parents dated 6th April, 2019 are on record which inter alia state that the prospective adoptive parents are medically and physically fit. Their HIV I & II and HbsAg test reports certify the case as Non-Reactive.

6. As far as financial condition of the prospective adoptive father is concerned, he is employed with Mahindra & Mahindra Nashik Plant since 8th January, 2009 and his monthly income is Rs. 45,072/-. His Pay Slip and Tax Returns for the Assessment Year 2016-17, 2016-17, 2017-18 and 2018-19 are on record at page Nos. 38 to 43 respectively. As far as the prospective adoptive mother is

concerned, she is presently a home maker. The copy of the PAN card, Aadhar Card, Proof of Residence and LIC certificate are also on record.

7. The Home Study Report is also on record. The Assessment report of the Social Worker of Adharashram, Nashik indicates that the Social Worker made a home visit on 2nd September, 2017. After this home visit, a report was made which states that the the prospective adoptive parents are living in their own house at Nashik. They are well settled and equipped with enough facilities to take care of the child. After all the assessment, the social worker recommended the couple for adoption.

8. The HIV report of the proposed minor dated 6th January, 2019 certifies the case as Negative. The post-card size photograph of the minor is on record. As regards change of name, the prospective adoptive parents desire that the minor “Tejas” be renamed as “Gaurav Milind Potdar”. It is accordingly so ordered.

9. The brother and sister-in-law of the proposed adoptive mother have also executed a Child Security Undertaking dated 30th March, 2019 that in the event of any unforeseen mishap to the

prospective adoptive parents, they shall look after the minor. This Child Security Undertaking is at page Nos. 77 and 78 respectively. The medical examination of the minor Shameek dated 5th February, 2019 is on record and states that he is an active child. The proposed Adopters have countersigned the said report.

10. The joint consent, willingness and undertaking by the prospective adoptive parents are on record at page Nos. 34 and 35 along with the Pre-adoption foster care undertaking dated 8th April, 2019 (page Nos. 36 and 37). The undertaking dated 30th March, 2019 from the authorities of Adharashram, Nashik for furnishing post adoption follow-up report is at page No. 97 of the paper book.

11. The Indian Placement Agency's (St. Catherine's Home, Mumbai) recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid upto 24th April, 2020.

12. Even though the proposed adoptive parents are not before me, they have instructed the Advocate for the petitioner to state that they are willing to undertake to this Court that they shall create a fixed deposit in the name of minor in the sum of

Rs.1,00,000/- (Rupees One Lakh) till he attains the age of majority.

The said undertaking is accepted.

13. Having gone through the records of this Adoption Petition and looking at all the documents that have been placed before me, I think it would be in the interest of the child that he is adopted by the prospective Adopters. I therefore find no impediment in granting the reliefs sought in the petition.

14. In view of the foregoing discussion, the petition is allowed in terms of prayer clauses (a) to (d) which read thus :-

- (a) That the Prospective Adoptive Parents be given the said child in adoption be declared as parents and have all parental legal rights, privileges and responsibilities over the said minor **GAURAV MILIND POTDAR**;
- (b) That the Prospective Adoptive Parents may be granted leave to remove the said minor from the Jurisdiction of this Hon'ble Court and to take the said minor out of the Jurisdiction of this Hon'ble Court whenever required;
- (c) That the concerned **Municipal Authority / Birth Certificate issuing Authority** may be directed to issue Birth Certificate in the name of the said minor **GAURAV MILIND POTDAR** born on 16.11.2018 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor; and
- (d) That the Prospective Adoptive Parents be allowed to change the name of the minor from **TEJAS** to **GAURAV MILIND POTDAR** born on 16.11.2018.

15. The Judge's Order to this effect is also separately signed.

16. It is directed that the petitioner institution should obtain a further undertaking from the adoptive parents that they shall not give the minor child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

17. The Adoption petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)