

Tauseef

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

FOREIGN ADOPTION PETITION NO.37 OF 2019

M.S.W.C. Asha Sadan Balgruh	...Petitioner / Applicant
V/S.	
Virginia Alonso Juarros	...Proposed Adoptive Parent/ Co-Petitioner

Mr. Dipal Mehta, Advocate for Petitioner / Applicant.
Mr. Surve h/f. Mr. O. Harendran, Scrutiny Officer of ICSW present.
None for proposed Adoptive Parent /Co-petitioner.

**CORAM : G.S. KULKARNI, J.
 (IN CHAMBER)**
DATE : 15th NOVEMBER 2019.

P.C. :

1. This is a Foreign Adoption Petition, whereby M.S.W.C. Asha Sadan Balgruh, a registered social welfare organisation and a recognized specialized adoption agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the **Juvenile Justice Act**”) by the Government of Maharashtra, for rehabilitation of orphans is before the Court praying that minor “Aryan” born on 14 April 2017 be granted in adoption to the Proposed Adoptive Parent, who is the co-petitioner, namely, Ms. Virginia Alonso Juarros, resident of Bilbao, Bizkaia, Spain.

2. The minor child is in the care and custody of the petitioner institution, in pursuance of an order dated 14 August 2017 passed by the

Child Welfare Committee, minor Aryan was declared free for adoption as per the provisions of Section 38 of the Juvenile Justice Act. Accordingly, the minor was registered in the Child Adoption Resources Information and Guidance System for adoption as per Section 56 (1) of the Juvenile Justice Act.

3. As seen from the averments, as made in the petition, the Proposed Adoptive Parent was registered with the Child Adoption Resources Information and Guidance System, by an authorised Foreign Adoption Agency, namely, “Namaste”. The Proposed Adoptive Parent Ms. Virginia Alonso Juarros is found eligible by the Central Adoption Resources Authority under the Ministry of Women and Child Development of India (for short the **CARA**), which has issued a certificate dated 02 September 2019, as per the criteria stipulated under Section 57 of the Juvenile Justice Act, read with regulation 5 of the Adoption Regulations, based on the Home Study Report and as per the laws of the country of the adoptive parents residence.

4. The Proposed Adoptive Parent was born on 17 March 1974 (age 45 years) and is unmarried and single. She applied to the petitioner for adopting an Indian child aged 1 to 3 through her sponsoring agency “Namaste”. The necessary documents as per the Hague Convention, the

originals of which are in Spanish, as translated in English are placed on record.

5. Exhibit – A to A-10 interalia are the Proposed Adoptive Parent's letter of Motivation, Life and Civil Status Certificate, Proof of Citizenship namely, the Passport, her Birth Certificate alongwith Criminal Verification Certificate, photographs of Proposed Adoptive Parent and of her home, Certificate from the local Municipality, Medical Certificate and Test Reports and the Proposed Adoptive Parent's endorsement on Certificate Declaring Child Free for Adoption.

6. In paragraph 6 of the petition the petitioner has set out the details of the minor child and as to how minor Aryan has come in the care and custody of the petitioner M.S.W.C. Asha Sadan, and that the child was legally free for adoption by the Child Welfare Committee. Exhibit – B to the petition is an affidavit of Ms. Jayalakshmy K., Superintendent of the petitioner M.S.W.C. Asha Sadan on oath stating that the Proposed Adoptive Parent had applied to the petitioner through the Government recognized Spanish Adoptive Agency "Namaste". It is stated that having examined all necessary details including the Medical Reports and the child study, the proposed adoptive parent has accepted minor Aryan to be her adoptive child. It also records that the CARA has also issued its no

objection. The deponent has also verified the statements which are made in the petition and further recorded that the petitioner has no financial dealing with the Proposed Adoptive Parent and the statements of adoption fees for minor Aryan are duly counter signed by the Proposed Adoptive Parent. A no objection certificate dated 02 September 2019 as issued by the CARA as also the certificate of CARA recognizing the petitioner as the adoption agency are placed on record.

7. I have also perused the report of the Director General of Administration and Social promotion, Department of Social Services of the Bizkaria Provincial Council on the psychological report and on the suitability of the adoptive parent, for International Adoption in India. The social report contains all the personal details, family relationship, education and professional background of the Proposed Adoptive Parent. It records that the Proposed Adoptive Parent has been working as a nurse with the “Osi Ezkerraldea Enkarterri Cruces, Spain” since 2008 and that she is in good health. She has no biological children but she tried to become a mother through in-vitro treatments which did not work and ultimately she decided to revoke the fertility treatment, because of the high cost they entail at all levels. The reasons for the proposed adoption are also set out in the said report. The financial position is also set out and her yearly income is stated to be above 39,147.38 Euros. She is also an

owner of the dwelling unit situated on the third floor, in a well constructed building with a lift and has decent surroundings. I have also perused the psychological report which also bears nothing negative. I have also perused the certificate of suitability dated 27 December 2016 issued by the Director General of Administration and Social Promotion, Spain pertaining to the Adoptive Parent as placed on record. The details of the properties and assets of the adoptive parent, childcare arrangement as proposed by the adoptive parent, certificate of child security issued by Mr. Mikel Suanos Coineja and Mrs. Eba Iglesias Zorrilla, cousin of the proposed adoptive mother, who has undertaken that in case of any unforeseen event, mishap to the proposed adoptive mother, they will look after and maintain the minor as their very own and to the best of their ability are on record. There is also a recommendation and certificate by one Arantxa Hernandez Martin supporting the decision of the proposed adoptive mother and certifying that she is fully qualified to be a mother. There is similar certificate by Maria Teresa Muniz Menchaca. There is an Official Medical Certificate of the General Council of Official Medical Association certifying that the proposed adoptive mother does not suffer from any infectious/contagious disease or from any physical or psychological defect. It is also certified that the proposed adoptive mother having been examined do not detect any personality disorder or pathology which prevents her from

leading a normal life. There is also a declaration of consent and willingness of the adoptive mother dated 11 July 2019 and also an undertaking of the proposed adoptive mother that she will look after the minor child Aryan as her own son and provide him necessary education and upbringing according to her status and that she will regularly send the progress report of the child with his recent photographs to the M.S.W.C. Asha Sadan, Mumbai as required by the High Court for a period of two years or till such time as the legal adoption is completed and citizenship is acquired in the country. There is also a declaration of follow up commitment issued by the Department of Social Services of the Biscay Provincial Council. The Spanish Adoptive Agency “Namaste” has also given an undertaking interalia to report the progress of the adopted child from the date of the arrival of the child in the receiving country, on a quarterly basis during the first year and on six monthly basis in the second year, as per the Adoption Regulations, 2017 of CARA.

8. I have perused all the aforesaid documents as placed on record. I have gone through a report of Mr.O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare Central Office, Bombay which is marked “X” for identification. In my opinion, it would be in the interest of minor Aryan to be adopted by the Proposed Adoptive Parent Virginia Alonso Juarros. I am of the opinion that the adoption would be certainly in the paramount

interest and welfare of the minor child. It is expected that the adoptive parent and all their concerned agencies shall, initially for a period of two years regularly, take appropriate actions in making reports and keeping the petitioner informed about the progress of minor. I have no doubt that Virginia Alonso Juarros—the adoptive parent would take care of the minor and confer all love and affection and always treat minor Aryan as her own son and also create a conducive atmosphere for the welfare of the minor as stated in her motivational report and all other undertakings and by her larger family and friends. For this new journey in life, the Almighty will certainly shower his blessings on the adoptive mother and the child.

9. In view of the above deliberation, I propose to allow this petition in terms of prayer Clause (a), (b), (c), (d), (e) & (f) which reads as under;

“(a) This Hon’ble Court may be pleased to appoint the Co-Petitioner/Proposed Adoptive Parent as the parent of the male minor, Aryan, now in the case of the M.S.W.C. Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009.

(b) That the Co-petitioner/Proposed Adoptive Parent be allowed to change the name of the minor, from ‘**Aryan**’ to ‘**Aryan Virginia Juarros**’.

(c) That the Co-Petitioner/Proposed Adoptive Parent may be granted leave to remove the aforesaid child, Aryan @ **Aryan Virginia Juarros** from the jurisdiction of this Hon’ble Court and to take the minor out of India along with her, to her home i.e. wherever she may require him to.

(d) That the Petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth Certificate of male minor “**Aryan Virginia Juarros**” showing the name of the Proposed Adoptive Parent as his parent.

(e) That the concerned Municipality/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor ‘**Aryan Virginia Juarros**’ within five working days from the date of application of the Petitioner, as per the provisions of sub-regulation 15 of the Adoption Regulations 18 and regulation 36.

(f) The concerned Regional Passport Office may be directed to issue Passport of the said 'Aryan Virginia Juarros' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38."

10. Judges order is separately signed.
11. The proposed adoptive parent shall forward quarterly reports about the minor child to the petitioner and CARA for two years or till the minor is conferred foreign citizenship whichever is later.
12. A copy of this order also be forwarded to the Spanish Authorities through CARA.
13. The Adoption Petition is disposed of in the aforesaid terms.
14. Parties to act authenticated copy of this order.

(G.S. KULKARNI J.)