

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 52 of 2019

WITH

JUDGE'S ORDER No. 163 of 2019

Shraddhanand Mahilashram,	]	
through its Authorised signatory	]	
Mrs. Kshama Joshi,	]	..Petitioner.

And

(1) Rupesh Swamy, age 43 yrs.	]	
(2) Marshneil Swamy, age 32 yrs.	]	..Proposed Adopters.

Mr. Rakesh Kapoor I/by M/s Rakesh K.L. Kapoor &
Co. for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer of ICSW.

CORAM : B. P. COLABAWALLA, J.

DATED :- 5th September, 2019.

P.C. :-

1. This Indian Adoption Petition is filed for adopting a male minor **Aarav** born on 17th January, 2019 by Indian Nationals. The said minor was admitted to the petitioner Institution on 22nd

January, 2019 as per the safe custody order of the Child Welfare Committee dated 25th January, 2019 under Section 36 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “Juvenile Justice Act”) read with Rule 18 (4) of the Model Juvenile Justice Rules, 2016. The said admission order of Child Welfare Committee, Mumbai is on record at page Nos. 18 and 19. The representation of Indian Council of Social Welfare (ICSW) is tendered before me and taken on record and marked “X” for identification.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the Child Welfare Committee, Mumbai City II declared the proposed minor Aarav legally free for adoption as on 26th April, 2019. The Free for Adoption Certificate is tendered before me, same is taken on record and marked “X-1” for identification.

3. The prospective adoptive parents are residing at Ahmednagar, aged about 43 and 32 years respectively. They have been married for the past 11 years (27th January, 2008) with no biological children. The Motivation letter by the prospective

adoptive parents is on record and it states that after trying years for a biological child, they were disappointed and thought of getting home an orphan child and fulfill their dream being a parents. The motivation letter is at page No.31 of the paper book.

4. The Minutes of the Adoption Committee dated 24th June, 2019 is on record and it states that the prospective adoptive parents are considered suitable to adopt the male child **Aarav** born on 17th January, 2019. The said decision of the Adoption Committee can be found at page No. 15 of the paper book. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Applicant) is also on record at page Nos. 136 to 138.

5. The Health Reports of the prospective adoptive parents dated 10th June, 2019 are on record and it states, "They are free of any communicable and contagious disease or any physical or mental impairment that could endanger an adoptive child". Their HIV I & II and HbsAg Test reports certifies the case as Non-reactive. The said test reports are at page Nos. 25 to 30 respectively.

6. The prospective adoptive father is working as an

Assistant Teacher at Colonel Parab's School, Ahmednagar since 1015 and also one of the Proprietors of "Swamy Classes" at Ahmednagar. His gross income for the Assessment Year 2019-20 is Rs. 3,25,472/-. His Employment Certificate and Tax Returns for the Assessment Years 2017-18, 2018-19 and 2019-20 are on record at page Nos. 37 to 52. The prospective adoptive mother is a Junior College Teacher in the Department of English at Ahmednagar College since 29th November, 2018 and also one of the Proprietors of "Swamy Classes" at Ahmednagar. Her income for the Assessment Year 2019-20 is Rs. 3,25,700/-. Her Income Affidavit, Employment Certificate and Tax Returns for the Assessment Years 2017-18, 2018-19 and 2019-20 are on record at Page Nos. 60 to 85. The copies of PAN Cards, proof of residence and other supportive financial documents are on record at page Nos. 21, 23, 32 and 92 respectively.

7. The child care plan declaration and Undertakings from the prospective adoptive mother, her mother and father-in-law are on record at page Nos. 93 to 97.

8. The Home Study Report Part I: Self Assessment Report by the prospective adoptive parents is on record at page Nos. 98 to 105. Part II Assessment Report of the Social Worker of Snehanakur

Adoption Center, Ahmednagar (Home visit conducted on 17th March, 2017) is on record and it states that the prospective adoptive parents are a very caring couple and in good physical and emotional state to take care of a child. They are financially sound to welcome another member into their family. After all assessment, the Social Worker is of the view that the prospective adoptive parents are very caring and financially fit and able to look after a child and are eligible to adopt a male/female child around 0-2 year of age whom they wish to adopt. This part II Assessment Report can be found at page Nos. 106 to 115.

9. A child security undertaking dated 27th June, 2019 by the cousin sister and brother-in-law of the prospective adoptive father residing at Sion, Mumbai to look after the proposed minor in case of any mishap to the prospective adoptive parents is on record and can be found at page Nos. 123 and 124 respectively.

10. The medical examination of the proposed minor Aarav dated 14th May, 2019 is on record and it states, "Milestones are normal for age. He is an active child". The prospective adoptive parents have countersigned the said report and can be found at page Nos. 127 to 133. The HIV test report of the proposed minor dated 4th

May, 2019 certifies the case as Negative and the said report can be found at page No.134. The post card size photograph of the minor is on record at page No. 135.

11. As regards the change of name, the prospective adoptive parents desire that the minor 'Aarav' be renamed as **"Izaac Swamy"**. It is accordingly so ordered.

12. The joint consent and willingness by the prospective adoptive parents are on record and it states that they are willing to be appointed or declared adoptive parents of male minor Aarav. The said joint consent and willingness by the prospective adoptive parents is at page Nos. 33 and 34.

13. The Pre-adoption foster care undertaking dated 27th June, 2019 is also on record and it states that the proposed minor Aarav born on 17th January, 2019 is in the foster care of the prospective adoptive parents from 27th June, 2019. The said foster care undertaking can be found at page Nos. 35 and 36.

14. The undertaking dated 5th June, 2019 from the Authorities of Snehankur Adoption Center, Ahmednagar for

furnishing post adoption follow-up reports is also on record at page No. 141.

15. The petitioner Institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period upto 31st December, 2020.

16. Though the proposed adoptive parents are not present before me, the learned Advocate appearing on behalf of the petitioner has stated that he has instructions on behalf of the proposed adoptive parents to state that they shall create a fixed deposit in the name of the minor in the sum of Rs. 1,00,000/- lakh until he attains majority. The said statement made on behalf of the proposed adoptive parents is accepted as an undertaking given to this Court.

17. Looking to all the documents that have been placed before me and after perusing the record, I think it would be in the interest of the child if he is adopted by the proposed Adopters. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

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

- (a) That the Co-Petitioners be given the said child in adoption be declared as parents and have all parental legal rights, privileges and responsibilities over the said minor **IZAAC SWAMY** born on 17.01.2019;
- (b) That the Co-Petitioners may be granted leave to remove the said minor **IZAAC SWAMY** 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 **IZAAC SWAMY** born on 17.01.2019 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor; and
- (d) That the Co-Petitioners be allowed to change the name of the minor from **Aarav** to **Izaac Swamy** to born on 17.1.2019.

19. The Judge's Order is also separately signed.

20. It is directed that the petitioner institution shall 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, a copy of the same shall be filed on the record of this Court.

21. The Adoption Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)