

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

FOREIGN ADOPTION PETITION NO. 2 OF 2020

1.Children of the World India TrustPetitioner
And
1.Riccardo Perfetto, Italian National
2.Valentina Cormio, Italian National.Proposed Adopters

Mr. Rakesh K.L.Kapoor, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

CORAM : G.S. KULKARNI, J.
DATE : 28 February 2020

P. C.

This is a foreign adoption petition wherein the petitioner, Children of the World India Trust, Vishwabalak Kendra, Plot no.9 & 10, Sector 12, Nerul, Navi Mumbai, a recognized adoption agency alongwith the co-petitioners Mr.Riccardo Perfetto and his wife Mrs.Valentina Cormio, both of whom are Italian nationals having their address at Via Attilio Gisotti, 43-76125 Trani (BT) (for short “the adoptive parents”), are before the Court praying that male minor “**Soham**” born on 21 October 2018 be granted in adoption to the proposed adopters.

2. Minor **Soham** was admitted to the petitioner institution on 14 December 2018 as per the orders of the Child Welfare Committee,

Thane, (for short “CWC”) passed under the Juvenile Justice (Care and Protection of the Children) Act 2015 (for short ‘**the Juvenile Justice Act**’).

3. Thereafter, in pursuance of an inquiry as undertaken as per Section 38 of the Juvenile Justice Act, by an order dated 22 March 2019, the CWC declared minor Soham legally free for adoption. A certificate to that effect is placed on record.

4. The proposal for adoption in question by the adoptive parents was also considered by the Central Adoption Resource Authority (CARA), New Delhi and a No Objection Certificate dated 25 October 2019 to this adoption was issued as per Adoption Regulation 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-Country Adoption 1993.

4. Insofar as the adoptive parents are concerned, they are Italian nationals residing at the address noted above. They have been married for past 11 years (Date of Marriage: 6 June 2008) with two biological children namely a daughter aged 9 years and a son aged 6 years. The birth certificates of the biological children, their consent letters and health reports are placed on record.

5. Insofar as the health of the adoptive parents is concerned, a medical report dated 4 October 2019 is placed on record which states that both the adoptive parents are not suffering from any chronic, contagious, or terminal disease as also do not have any mental or physical condition that could interfere and taking care of the child. It is certified that both the adoptive parents are healthy.

6. As regards the adoptive father is concerned, he is self employed and is a owner of two companies namely “Perfetto s.r.l.s.” AND “Amores s.r.l.”. His gross income for the year 2018 is Euro 14,469. His income declaration and tax returns for the financial year 2016, 2017 and 2018 are placed on record. The adoptive mother is self employed businesswoman/independent contractor. Her income for the year 2018 was Euro 21,143. Her income declaration and Tax Returns for the financial year 2015, 2016 and 2017 are placed on record. Her latest tax certificate for the Tax year 2018 is on also placed on record. There is also a bank reference, property declaration and proof of residence the details of which are placed on record.

7. Insofar as the medical examination report of minor Soham is concerned, it is dated 1 April 2019, which records that the minor’s mother is seropositive. Minor’s HIV antibodies (I & II) test report dated 10 December 2018 was reactive (HIV-I). His DBS done in

January 2019 is negative and HIV1DNA qualitative done in July 2019 is also negative. The adoptive parents have examined as also have countersigned this report. The HIV Repot of the minor Soham dated 10 July 2019 certifies the case as non-reactive.

8. There is a home study report dated 28 July 2017 of the adoptive parents conducted by the authorities of “Association-1 Bambini Dell” Arcobaleno-Bambarco ONLUS” Italy, which interalia contain details of the family background of the adoptive parents, their financial situation, description of the house and neighbourhood, current marital relationship of the adoptive parents and attitude of grand parents and other relatives significant for adoption, possible rehabilitation plans for the child in case of any eventuality of the adoptive parents, police report, health status, value system, motivation for adoption, names and addresses of the references including their contact details and overall analysis and evaluation. The home study report states that the adoptive family seems to be pretty motivated in their adoption choice, conscious of the problems and the difficulties that could happen in the adoptive procedure. Both of them are stated to be in a good health status and seem to be ready to take care of the child. There is also update Home study Report dated 14 February 2020 confirming that the adoptive parents and their children are in good health conditions and furthermore the adoptive parents are possessing an emotional and

psychological balance and as such are eligible to take care of a child to be taken in adoption. A copy of the Home Study Report dated 14 February 2020 alongwith the latest income tax returns 2018 are marked “X” for identification. There is also a Psychological Assessment Report dated 26 February 2018 of the “Association-1 Bambini Dell’ Arcobaleno-Bambarco ONLUS” Italy stating that the couple appears to possess the requirements of psychological, cultural and social-relational type to face and to do jointly and in responsible way adhere to the parental roles.

9. There is Adoption Guarantee letter dated 7 March 2018 issued by Commission for Inter-Country Adoption on behalf of the Government of Italy. An approval dated 14 November 2019 from Presidency of Council of Ministers, Commission for Inter-country Adoption and the Suitability Decree from the Juvenile Court of Bari, Italy are also placed on record.

10. Mr. O. Hareenran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, has placed on record a representation (marked ‘X-1’ for identification), setting out all the details in regard to the proposed adopters. This representation does not indicate anything adverse, for this court, not to permit the adoption in question.

11. Also a declaration of willingness and undertaking of the adoptive parents is placed on record which states that they are desirous to adopt male minor Soham and further undertake that they will permit home visit of the social worker during post-adoption follow up and shall legally adopt the said minor within two years from the date of arrival of the minor at their home. There is also an undertaking dated 13 August 2010 of the Authorized Foreign Adoption Agency (AFF) "Association-1 Bambini Dell'Arcobaleno-Bambaarco ONLUS 'Italy, to furnish post adoption follow-up reports and for necessary action in case of disruption in the adoptive family. There is a general power of attorney duly signed by the adoptive parents in favour of the petitioner institution and seek the reliefs as prayed for.

12. A child care affidavit from the adoptive parents is also placed on record. Joint family Photograph of adoptive parents and their children is placed on record. Also a photograph of minor Soham is placed on record.

13. The petitioner-institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid upto 31 July 2019. However, the petitioner-institution has applied for

renewal and in the interregnum has filed this adoption petition under the provisions of Regulation 24(5) of the Adoption Regulations 2017.

13. Having heard the learned Counsel for the petitioner and having perused the record as noted above, the permission as granted by CARA as also having perused the report of Mr. O. Hareendran, Scrutiny Officer from the Institute of Child and Social Welfare dated 26 February 2020, in my opinion the adoptive parents appear to be suitable on all the counts as noted above to adopt the minor. Hence, considering the paramount interest and welfare of the minor male child **Soham** and the intention, desire and spirit of the adoptive parents, to have in adoption a minor child like Soham from India, the petition is required to be allowed. It would be required to be allowed accepting the undertakings as made by the adoptive parents as placed on record as also the undertakings which are furnished by the Authorised Foreign Adoption Agency "Association- I Bambini Dell'Arcobaleno-Bambaarco ONLUS 'Italy. The agency shall for a period of three years send half yearly reports in regard child '**Soham @ Samuele Perfetto** to CARA.

14. In the circumstances, I do not find any impediment in granting the reliefs as prayed for. Hence, the following order:-

ORDER

1. The Foreign Adoption Petition is allowed in terms of prayer clauses(a),(b), (c), (d) and (e) which reads thus:-

(a) For the Adoption of the Proposed male minor “Soham alias “Samuele Perfetto” born on 21st day of October,2018 by the proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor child Soham now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot no.9 & 10, Sector 12, Nerul, Navi Mumbai-400706.

(c) That the proposed adopters be allowed to change the name of the minor “**Soham**” to “**Samuele Perfetto**”.

(d) Leave/Permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of minor **Samuele Perfetto**.

(e) That the proposed Adopters may be granted leave to remove the said minor **Samuele Perfetto** from the jurisdiction of this Hon’ble Court and to take the said minor to ITALY or wherever they may reside in future.

2. The Judge’s order is separately signed.

3. The adoptive parents shall also through concerned Italian Authorities forward to the petitioner the half yearly progress and development reports of the minor for a period of three years from today, to be placed for consideration of the Central Adoption Resource Authority (CARA), New Delhi.
4. The foreign adoption petition is disposed of in the above terms.
5. Parties be furnished authenticated copy of this order.

Digitally
signed by
Prashant
V. Rane
Date:
2020.03.17
20:22:00
+0530

[G.S. KULKARNI, J.]