

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

FOREIGN ADOPTION PETITION NO. 16 OF 2021
WITH
JUDGE'S ORDER NO. 103 OF 2021**

Janani Ashish Charitable Trust

...Petitioner

Versus

Jerry Pete Obermueller And Anr. (Proposed
Adopters) and Aboli (Minor)

...Proposed
Adoptive parents

.....

Mr. Rakesh Kapoor - Advocate for the Petitioner.

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

Mr. D. R. Talekar – Chamber Registrar, present.

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CORAM : DAMA SESHADRI NAIDU, J.

DATE : 08th JULY 2021.

P.C. :

Heard Shri Rakesh Kapoor, the learned counsel for the Petitioner, and Shri O. Hareendran Nambiar, the Scrutiny Officer, Indian Council of Social Welfare (ICWS), in the Court through a VC link.

2. This foreign adoption petition proposes the adoption of a girl, Aboli, born on 28th August 2014. Vasai

Road Railway Station police found the child on 24.12.2014 abandoned and presented it before the Child Welfare Committee, Thane on 26.12.2017. On the same day, the girl was handed over to the Petitioner institution, Janani Ashish Charitable Trust, Dombivli East, Dist Thane. Later, on 13th November 2018, the Child Welfare Committee inquired and passed the 'legally free for adoption' order under Section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016). The order is placed on record.

3. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) supporting adoption of the child has been placed on record.

4. On 26th February 2021, the Central Adoption Resource Authority (CARA), New Delhi, issued a No Objection Certificate to the proposed adoption. It is as per the applicable Adoption Regulations 2017 and Article 17(c) of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption, 1993.

5. The proposed adoptive parents are Americans, residing at Wyoming, the U.S.A. They are about 45 and 47 years old, having been married for twenty years, with two biological daughters, aged about 14 years and 10 years. Their Birth Certificates, consent letters, and medical

certificates have been placed on record. The proposed adopters' motivation letter has been placed on record, indicating the rationale of their intention to adopt a minor child from India.

6. Medical reports of the adoptive parents showing that they do not suffer from any chronic, contagious, or fatal disease and that they are fit to adopt the child. All their medical reports, including their negative HIV, have also been placed on record.

7. Since 01.01.2019, the prospective adoptive father has been working as a President and Chief Executive Officer of Petroleum Association of Wyoming, USA, with an annual gross salary of \$ 187,000. His income and employment certificates have been placed on record. And since February 2020, the prospective adoptive mother has been working as an Administrative Assistant with Mountain West Speech Services. She currently earns \$ 20 per hour, working 5 to 10 hours per week. Her Income and Employment Certificates, too, have been placed on record. Other documents placed on record are the adoptive parents' Individual Income Tax returns for 2017, 2018 and 2019, the financial statements, bank references, and Affidavit of residence of the adoptive parents.

8. The childcare arrangement plan by the prospective Adoptive parents has also been placed on record.

9. Home study report, dated 11/08/2020, by the authorities of Wyoming and Colorado Children's Society", USA, has been placed on record. After a thorough assessment, they have recommended and approved the couple's adopting one female child below 7 years from India. The child is to be healthy or with moderate special needs. Along with the home study report, the adoptive parents' psychological evaluation reports, dated 13th May 2020 and 30th October 2020, have been placed on record. From the evaluation it appears that the family has adequate resources, and their home environment allows an additional child.

10. I also see on record the Article "5" letter, dated 02/02/2021, of Embassy of the United States of America, Office of Children's Issues, U.S. Department of State, Washington D.C. for Aboli's entry and permanent residence in the United States following the adoption.

11. Child security undertaking, dated 14.05.2020, furnished by the prospective adoptive father's brother and sister-in-law, has been placed on record. They offer to look after the minor child if any mishap occurs to the prospective adoptive parents.

12. The child's Medical Examination Report, dated 24/10/2020, is on record. It reveals the "Overall Observation of the child" thus: Aboli is a happy and contented girl; her development is normal. The proposed adopters have countersigned this report along with the orthopedic report, dated 27/10/2020. The adoptive parents' undertaking regarding the child's medical needs and her negative HIV report have also been placed on record. The minor's Psychological Test Report, dated 28/08/2019, has been placed on record. It reveals that the child's social quotient was found to be 86; thus, it indicates that the child seems to have below average social intelligence. The proposed adopters have countersigned this report along with the speech and hearing report, dated 02/11/2020.

13. The adoptive parents' declaration of willingness to adopt and undertaking to permit home visits to the social worker during post adoption follow-up have been placed on record.

14. I have seen on record the undertaking, dated 10/11/2020, of the Authorized Foreign Adoption Agency (AFFA), "America World Adoption" U.S.A., to provide the child's follow-up report and make alternative arrangements in case of disruption of the adoptive family has also been placed on record.

15. The Special Power of Attorney duly signed by the proposed adoptive parents favouring the Petitioner Institution has been placed on record.

16. To place children in adoption, the Petitioner institution had recognition until 31.07.2019 from the Women & Child Development, Maharashtra State. However, the Petitioner institution has applied for renewal, and in the meanwhile it has filed this adoption petition under Regulation 24 (5) of the Adoption Regulations, 2017.

17. Considering the material placed on record and compliances noted above, this Court reckons that the adoption petition deserves to be allowed. In this regard, the report of the Scrutiny Officer, dated 03.07.2021, is taken on record and marked-'X' for identification.

18. The petition is, accordingly, allowed in terms of prayer clauses (a) to (e):

“(a) For the Adoption of the proposed female minor Aboli, born on 28th day of August 2014 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 ABOLI now in the care and custody of Janani

Ashish Charitable Trust, Plot P/37, M.I.D.C.,
Res. Zone, Dombivli (East) – 421 203, Dist.
Thane, Maharashtra State.

(c) Leave/permission be granted to apply
the concern Municipal Authorities to issue
the Birth Certificate of the said minor
ABOLI.

(d) That the Proposed Adopters may be
granted leave to remove the said minor
ABOLI from the jurisdiction of this Hon'ble
Court and to take the said minor to U.S.A. or
wherever they may reside in future.

(e) Pass such other or further orders as it
may deem fit and proper on the facts and
circumstances of the case.”

19. Besides all the above, the Petitioner institution
should obtain an additional undertaking from the adoptive
parents affirming that they will not give the minor in
further adoption without this Court's prior leave. Once this
undertaking is secured, it shall be filed on the Court's
record.

20. Today, this Court has also signed a separate
Judge's Order appointing the prospective adopters as
adoptive parents of minor Aboli.

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

[DAMA SESHADRI NAIDU, J.]

Privacy Warning: No part of this order shall be uploaded on any public
domain or portal without this Court's express permission.