

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

FOREIGN ADOPTION PETITION NO. 19 OF 2021
WITH
JUDGE'S ORDER NO. 112 OF 2021**

M.S.W.C., Adoption Group At M.S.W.C. Asha ...Petitioner
Sadan Balgruh Through POA Jayalakshmy K.

Versus

Giacomo Giovanni Lazzarotto and Alessandra ...Proposed
Emma Zanotto and Devang @ Devang Adoptive
Lazzarotto (Minor) parents

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Mr. Dipal Mehta - 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 Dipal Mehta, 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. The foreign adoption petition proposes the
adoption of a boy, Devang, born on 19th January 2019. On

30.01.2019, the biological mother relinquished her rights over the child and left him with the Child Welfare Committee, Mumbai City-II. On the same day, the Committee handed over the child to the Petitioner institution, Asha Sadan. Later, on 03rd April 2019, 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) in support of adoption of child, too, has been placed on record.

4. On 12th January 2021, the Central Adoption Resource Authority (CARA), 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 Italians, residing in Italy. They are about 39 and 38 years old, having been married for eight years with one biological daughter, "Agnese", aged about 7½ years. Her birth certificate, medical report, and consent letter 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. The adoptive parents' medical reports, dated 01/02/2021 and 12/02/2021, show that the health of the prospective adoptive parents is good and does not disqualify them from parenting a child in anyway. All their medical reports, including their negative HIV, have also been placed on record.

7. Since 2010, the prospective adoptive father is self-employed as a Freelance Engineer, with annual income of EURO 55,437 (=Rs. 48, 90,139 – taxable year 2019). His employment Certificate and Tax certificates for 2017, 2018, and 2019 are placed on record. And the prospective adoptive mother is working as a Teacher with Ministry of Education, drawing a monthly net salary (December-2020) of Euro 2,796.58. Her salary slip and Tax Certificate for the tax years 2017, 2018, and 2019 have been placed on record. Placed on record are the Financial declaration and bank references 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 29/01/2021 by the authorities of "I Bamini Dell'Arcobaleno – Bambarco ONLUS" Italy, has been placed on record. The report

indicates that the prospective adoptive parents have all the necessary resources to guarantee a healthy and positive family upbringing of the adopted minor. After a thorough assessment, the Social Worker recommended the couple to adopt a child as they have the resources and adequate abilities to be parents in a 'constant and responsible way'. Along with the home study report, the adoptive parents' psychological evaluation report, dated 22/03/2018, from the Psychologist of I Bamini Dell'Arcobaleno – Bambarco ONLUS has also been placed on record. The report reveals that the adoptive family is cohesive, and their parental abilities are good and stable. Their adoption motivation is high. They are ready and prepared to take up their parental roles and responsibilities to welcome and to handle another child with love and care.

10. The approval decree, dated 23/03/2016, from the Juvenile Court of Venice, "Permission to enter and reside permanently in Italy by the Presidency of Council of Ministers, Italy dated 12/02/2021 and Adoption Guarantee Letter, dated 06/11/2018, of the Commission for Intercountry Adoption on behalf of the Government of Italy" have been placed on record.

11. Child security undertaking, dated 30/03/2021, furnished by the prospective adoptive father's cousins, residing in Italy, has been placed on record. They offer to

look after the minor child if any mishap occurs to the prospective adoptive parents.

12. Devang's medical examination report, dated 12/11/2019, is on record. Its "Overall observation of the child is thus: a normal, healthy child. The proposed adopters have countersigned this report. Devang's negative HIV have also been placed on record.

13. The proposed adopters' declaration of consent and undertaking is on record; it states that they are willing to adopt minor Devang, born on 19/01/2019. They further undertake to send the child's post-placement reports, together with recent photographs, as required by this Hon'ble Court.

14. I have seen on record the undertaking, dated 17.11.2020, of the Authorized Foreign Adoption Agency (AFFA), "I Bamini Dell'Arcobaleno – Bambarco ONLUS" Italy, to provide a follow-up report of the child and make alternative arrangements in case of disruption of the adoptive family has also been placed on record.

15. The copy of Power of Attorney, dated 19.01.2021, duly signed by the proposed adoptive parents favouring the Petitioner Institution has been placed on record.

16. 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 04.07.2021, is taken on record and marked-'X' for identification.

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

“(a) This Hon’ble Court may be pleased to appoint the Proposed Adoptive Parents as the parents of the male minor, Devang now in the care of the M.S.W.C. Asha Sadan Balgruh, Asha Sada Marg, Umerkhadi, Mumbai – 400 009,

(b) That the Proposed Adoptive Parents be allowed to change the name of the minor, from ‘Devang’ to ‘Devang Lazzarotto’,

(c) That the Proposed Adoptive Parents may be granted leave to remove the aforesaid child, Devang @ Devang Lazzarotto from the jurisdiction of this Hon’ble Court and to take the minor out of India alongwith them, to their home i.e. wherever their 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 ‘Devang Lazzarotto’ showing the names of the Proposed Adoptive Parents as his parents,

(e) That the concerned Municipality/the Birth Certificate issuing Authority may be

directed to issue Birth Certificate for the said minor 'Devang Lazzarotto' 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 for the said 'Devang Lazzarotto' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38,

(g) For such further and other Orders as the circumstances of this case may require.

18. 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.

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

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

[DAMA SESHADRI NAIDU, J.]

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