

K.S. Jadhav

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

INDIAN ADOPTION PETITION NO.11 OF 2023

WITH

JUDGE'S ORDER NO.19 OF 2023

IN

INDIAN ADOPTION PETITION NO.11 OF 2023

**Maharashtra State Women's Council Adoption ...Petitioner
Group at Maharashtra State Women's Council,
Asha Sadan Balgruh,
Umerkhadi, Mumbai.**

And

**1. Hiten Mulchand Chhadva ...Prospective
2. Priyanka Hiten Chhadva Adoptive Parents**

Ms. Dipal S. Mehta, Advocate for Petitioners.

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

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 15TH JUNE, 2023.

ORDER :

1. The Petitioner is the Maharashtra State Women's Council Adoption Group at Maharashtra State Women's Council, Asha Sadan Balgruh, Umerkhadi, Mumbai which is a Specialized Adoption Agency duly recognized under Section 65 of the Juvenile Justice

(Care and Protection of Children) Act, 2015 by the State Government of Maharashtra, for rehabilitating orphan, abandoned and surrendered children through adoption in accordance with the provisions of the Juvenile Justice Act and Adoption Regulations.

2. The Petition is filed by the Petitioner alongwith the prospective adoptive parents for adoption of the minor male child by name ANSH @ ANSH HITEN CHHADVA (“the said minor male child”) from Maharashtra State Women’s Council. The report of the Scrutiny Officer Mr. O. Hareendran dated 31st May, 2023 is taken on record and marked ‘X’ for identification.

3. The said minor male child was born on 19th April, 2022 and admitted to Asha Sand Balgruh, Mumbai on 14th July, 2022. The Child Welfare Committee (CWC), Mumbai City-I formerly admitted the said minor male child by order dated 29th July, 2022. This was upon surrender of the said minor male child by the biological mother on the same date and CWC, Mumbai City-I thereafter transferred the said minor male child to the Petitioner’s institution.

4. After making due enquiry under Section 38 of the Juvenile

Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai City-I declared the said minor male child “ANSH” legally free for adoption. The Free for Adoption order is on record at Page Nos. 22 to 23 of the Petition.

5. The prospective adoptive parents are Indian nationals, residing at Thane, Maharashtra, aged about 41 years and 36 years respectively and have been married for the past 12 years i.e. from 10th December, 2010 with no biological children. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) is on record at Page Nos. 124 to 130 of the Petition. The decision of the Adoption Committee meeting held on 16th February, 2023 is on record at Page Nos. 18 to 19 of the Petition and the Committee decided that the prospective adoptive parents are suitable for adoption of said minor male child.

6. The Medical Report of the prospective adoptive parents dated 4th February, 2023 is on record at Page Nos. 29 to 34 of the Petition and it states, “The health of the prospective adoptive parents do not disqualify in parenting a child in anyway”. Their HIV I & II and HBsAg test reports certifies the case as Non-Reactive.

7. The prospective adoptive father is working as a Senior Manager, Accounts & Taxation with Viral Trading, Mira Road since 1st January, 2023 and his monthly gross salary is Rs.70,000/-. The copies of relevant documents including his Income Tax Returns, Pay Slips are on record at Page Nos. 48 to 50 & 54 to 57 of the Petition. The prospective adoptive mother is a Homemaker. Her Income Tax Returns for the years 2020-2021, 2021-2022 and 2022-2023 are on record at Page Nos. 51 to 53 of the Petition. Her total income for the Assessment Year 2022-2023 is Rs. 4,06,534/-.

8. The proof of residence, copies of PAN Card and other supportive financial documents are on record at Page Nos. 40 & 60 to 72 of the Petition. The Childcare arrangement plan statement of adoptive mother is on record at Page No.73 of the Petition. The Home Study Report Part I Self Assessment by the prospective adoptive parents are on record at Page Nos. 74 to 80 of the Petition. The Part II, Assessment Report of the Social Worker of Vatsalya Trust, Mumbai (Home Visit done on 3rd December, 2021) is on record and the report considered and it is found the prospective adoptive parents are suitable for adopting the said minor male child. The Home Visit Report is on record at Page Nos. 81 to 85 of the Petition.

9. There is a child security undertaking dated 25th February, 2023 of the prospective adoptive mother's sister and brother-in-law residing at Kalyan, District Thane who have undertaken to look after the said minor male child in case of any mishap to the prospective adoptive parents. This is on record at Page Nos. 117 to 123 of the Petition. Further, the Pre-adoption foster care undertaking dated 20th February, 2023 is on record at Page Nos. 45 to 47 of the Petition.

10. There is a Joint Declaration of consent and willingness of the prospective adoptive parents which is on record at Page Nos. 42 to 44 of the Petition. The prospective adoptive parents have agreed and undertaken to the Petitioner – Institution and to the District Magistrate that they will not give the said minor male child in further adoption to anyone residing outside India. The undertaking is accepted.

11. The medical examination of the said minor male child dated 24th January, 2023 is on record at Page Nos. 109 to 114 of the Petition and states "A normal, healthy infant. His physical and mental development normal for age". The proposed adopters have countersigned the said report. Further, the HIV Report of the said minor male child dated 13th December, 2022 certifies the case as

Non Reactive. This Report is on record at Page No. 115 of the Petition. The Post Card size Photograph of the said male minor child is also on record at Page No.25 of the Petition.

12. The prospective adoptive parents are desirerous to change the name of the said minor male child “**ANSH**” and to be renamed as “**ANSH HITEN CHHADVA**”. The undertaking dated 20th February, 2023 of Vatsalya Trust, Mumbai for furnishing post adoption follow-up reports is on record at Page No.116 of the Petition. The Petitioner-Institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 5th May, 2025.

13. The prospective adoptive parents are undertaking to pay sum of Rs.1,00,000/- (rupees One Lakh only) in LIC’s Single Premium Endowment Policy, in the name of the said minor male child. They will not withdraw the said invested amount till he attains majority.

14. It is relevant to note here that in the case of **Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors.,¹** concerning challenge raised to the Juvenile Justice (Care and

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022

Protection of Children) Amendment Act, 2021, the Division Bench of this Court on 10th January, 2023 passed an interim order. The relevant portion of said order of Division Bench reads as follows :

“8. *In the meantime, there will be an ad-interim order only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:*

(d) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to stay the effect, implementation and purport of the letter dated 30th September, 2022 issued by Respondent No.2;

(e) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to direct the Respondents not to transfer pending adoption matters before the District Magistrates for adjudication.

(f) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to direct the Hon’ble Courts to continue with the adjudication of the adoption matters that are pending on their record and file.

9. *Additionally, the safer and more prudent course of action would be to allow all matters to be placed before the learned Single Judge of this Court who is assigned those matters. Those orders may be continued to be passed until the challenge is finally decided.”*

15. Hence, it is clear that this Court can consider and dispose of the present Petition.

16. In view of the above, the Petition is allowed in terms of the prayer clauses (a) to (d), which reads thus :

“(a) This Hon’ble Court may be pleased to appoint the Co-Petitioners, Hiten Mulchand Chhadva and Priyanka Hiten Chhadva as the adoptive parents of the male minor, Ansh @ Ansh Hiten Chhadva, in the care of the Maharashtra State Women’s Council Adoption Group at Maharashtra State Women’s Council Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009,

(b) That the Co-Petitioners be allowed to change the name of the minor from ‘Ansh’ to ‘Ansh Hiten Chhadva’,

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon’ble Court and to take the minor alongwith them, i.e. to the Co-Petitioners’ family wherever they may reside or their work may require them to,

(d) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations.”

17. Judge's order is accepted and signed separately.

[R.I. CHAGLA, J.]