

K.S. Jadhav

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

INDIAN ADOPTION PETITION NO.12 OF 2023

Shree Manav Seva Sangh

...Petitioner

And

1. Mayank Sudhakar Rege
2. Sampada Mayank Rege

...Prospective
Adoptive Parents

WITH
JUDGE'S ORDER NO.26 OF 2023
IN
INDIAN ADOPTION PETITION NO.12 OF 2023

Mr. Rakesh Kapoor, Advocate for Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 13TH JULY, 2023.

ORDER :

KAVITA
SUSHIL
JADHAV

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1. The Petition has been filed by the Petitioner-Institution which is recognized Specialized Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act") by the State Government of

Maharashtra, for rehabilitating orphan, abandoned and surrendered children through adoption in accordance with the provisions of the Act and Adoption Regulations.

2. The Petition has been filed by the Petitioner-Institution alongwith the Prospective Adoptive Parents for adoption of the proposed female minor Kimaya (“the said female minor”) born on 19th March, 2022. The said female minor was admitted to the Petitioner-Institution on 22nd March, 2022 as per the order of Child Welfare Committee (CWC), Mumbai City I, which recognized the admission under the provisions of Act. Thereafter, on 25th March, 2022, the biological mother surrendered the said female minor before the CWC, Mumbai City I for her permanent rehabilitation. The Custody Order of the CWC has been placed on record at Page 22 to the Petition.

3. After making due inquiry under Section 38 of the Act, the CWC Mumbai City I declared the said female minor “Legally Free for Adoption” on 30th May, 2022. The Free for adoption Certificate has been placed on record at Page 21 to the Petition. The Prospective Adoptive Parents reside at Bangalore, Karnataka who are aged about 39 and 38 years respectively and they have been married for the past

12 years (25th December, 2010) with no biological child. The motivation letter from the Prospective Adoptive Parents has been placed on record at Page 36 to the Petition.

4. There is an Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of adoption of the said female minor which has been placed on record at Page Nos. 111-115 to the Petition.

5. The decision of Adoption Committee dated 6th July, 2022 states that the Prospective Adoptive Parents have been found suitable to adopt the said female minor Kimaya born on 19th March, 2022, which is placed on record at Page Nos. 19-20A to the Petition.

6. The Health Reports dated 27th June, 2022 of the Prospective Adoptive Parents states that, the Prospective Adoptive Parents appear to be medically fit for the purpose of adoption of said female minor. Their HIV and HBsAg test reports certify the case as Negative which are placed on record at Page Nos. 26-35 to the Petition.

7. The Prospective Adoptive Father is working as an Engineer/ Staff Manager with Qualcomm India Private Ltd., Bangalore since

11th May, 2020 with monthly (May-2022) gross salary of Rs.3,66,219/-. The relevant documents viz. Salary Slip, Form No. 16 and Income Tax Returns are at Page Nos. 47-63 to this Petition. The Prospective Adoptive Mother is a Homemaker.

8. The other relevant documents viz. Proof of Residence, Copies of Aadhar and PAN Card, Proof of residence and supportive financial documents have been placed on record at Page Nos. 37-42 & 64-70 to the Petition.

9. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents is placed on record at Page Nos. 71-80 to the Petition. The part II : Assessment Report dated 29th January, 2022 by the Social Worker of Shishu Mandir Children's Home, Bengaluru has found that the Prospective Adoptive Parents suitable for adopting the said female minor. The said report has been placed on record at Pages 81-84 to the Petition.

10. There is a Child Security Undertaking dated 24th June, 2022 given by the Prospective Adoptive mother's sister and brother-in-law residing at Andheri, Mumbai, who have been undertaken to look after the said female minor in case of any mishap to the Prospective

Adoptive Parents. The said Undertaking has been placed on record at Page Nos. 95-98 to the Petition.

11. The Medical Examination Report dated 4th June, 2022 of the said female minor states “The child is at present mentally and physically Normal”. The said Report is placed on record at Page Nos. 102-107 to the Petition. The Prospective Adoptive Parents have countersigned the said Report.

12. The HIV report of the said female minor dated 29th March, 2022 certifies the case as Negative. This report is placed on record at Page 109 to the Petition. Post Card Size Photograph of the said female minor is on record at Page 110 to the Petition.

13. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Kimaya’ be renamed as “Anvi Mayank Rege”.

14. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor. This declaration has been placed on record at Page Nos. 43-44 to the Petition.

15. The Pre-adoption Foster Care Undertaking dated 24th June, 2022 has been placed on record at Page Nos. 45-46 to the Petition.

16. There is an Undertaking dated 24th June, 2022 by the authorities of “Shishu Mandir Children’s Home” Bengaluru for furnishing post adoption follow-up reports which is placed on record at Page 116 to the Petition.

17. The Petitioner Institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 7th March, 2024.

18. Mr. O. Hareendran, the Scrutiny Officer has tendered Report dated 29th June, 2023 which is taken on record and marked ‘X’ for identification.

19. Having considered the documents on record as well as Report of the Scrutiny Officer, I am of the view that it would be in the interest of the said female minor child, if she is adopted by the Prospective Adoptive Parents.

20. It is relevant to note that the Division Bench of this Court in ***Nisha Pradeep Pandya @ Nisha Amit Gor and Anr. Vs. Union of India***

and Ors.¹ concerning challenge raised to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, passed an interim order dated 10th January, 2023. The relevant portion of the 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*

¹ WP No.1085 of 2023

the challenge is finally decided.”

21. Thus, there is no impediment in granting the relief sought for in the Petition.

22. The Prospective Adoptive Parents have undertaken to invest a sum of Rs.1,00,000/- (rupees One Lakh only) in LIC's Single Premium Endowment Policy, in the name of the said female minor. They will not withdraw the said invested amount till the said female minor attains majority. The undertaking is accepted as undertaking to this Court.

23. In view of the above, the Petition is made absolute in terms of prayer clauses (a) to (d) which read thus:-

*“(a) That the Prospective Adoptive Parents be given the said child **Anvi Mayank Rege** in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor.*

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minor 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 **Anvi Mayank Rege born on 19th March, 2022** and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.*

*(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from '**KIMAYA**' to "**Anvi Mayank Rege "born on 19/03/2022."***

24. The Judges Order is accepted and signed separately.
25. The Indian Adoption Petition is accordingly disposed of.
26. No order as to costs.
27. All concerned will act on production by fax or email of a digitally signed copy of this Order.

[R.I. CHAGLA, J.]