

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.14 OF 2023

Shree Manav Seva Sangh

...Petitioner

And

Lepakshi Kashif Sattar Khan

...Prospective
Adoptive Parents

WITH
JUDGE'S ORDER NO.28 OF 2023
IN
INDIAN ADOPTION PETITION NO.14 OF 2023

Mr. Rakesh Kapoor, Advocate for Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 13TH JULY, 2023.

ORDER :

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

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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 male minor “Pradnesh” (“the said male minor”) born on 27th May, 2020. The said male minor was found abandoned by Malvani Police Station, Malad, Mumbai on 1st June, 2020 and admitted to the Petitioner-Institution on the same day as per the order of Child Welfare Committee (CWC), Mumbai City II dated 1st June, 2020 under the provisions of the Act. 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 II declared the said male minor “Legally Free for Adoption” on 28th February, 2022. The Free for Adoption Certificate has been placed on record at Page 21 to the Petition.

4. The Prospective Adoptive Parents are residing at Anantapur, Andhra Pradesh, aged about 37 and 32 years respectively, having

been married for the past 7 years (7th February, 2016) with no biological children. The motivation letter from the Prospective Adoptive Parents has been placed on record at Page 34 to the Petition.

5. There is an Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of adoption of the said male minor which has been placed on record at Page Nos. 101-105 to the Petition.

6. The decision of Adoption Committee dated 2nd September, 2022 has been placed on record at Page Nos. 19-20 to the Petition. The Committee has found that the Prospective Adoptive Parents are suitable to adopt the said male minor.

7. The Health Reports dated 19th August, 2022 of the Prospective Adoptive Parents state that they are medically fit for the purpose of adoption of said male minor. Their HIV and HBsAg test reports are placed on record which certify the case as Non Reactive at Page Nos. 26 to 33 to the Petition.

8. The Prospective Adoptive Father is working as a Marketing Executive with M/s Junaid Enterprises (Coca Cola Products) and his

income for the year ending 31st March, 2022 is Rs.2,50,000/-. His Income Certificate dated 25th April, 2023 from the Chartered Accountants, Indian Income Tax updated Return Acknowledgment for the Assessment Year 2022-23 and Employment Certificate are placed on record at Annexure 1 & 2 at Page Nos.1 to 3.

9. The learned Counsel appearing for the Petitioner has tendered a compilation of Income Certificate from the Chartered Accountant and Tax Year 2022-2023 of Prospective Adoptive Father and Income Tax Certificate of Adoptive Father. The said compilation is taken on record and marked 'X' for identification.

10. The Prospective Adoptive Mother is self employed (Tailoring Designer) at Vidyaranya Nagar, Anantpur and her annual income is of Rs.2,40,000/-. Her Income Certificate from the Chartered Accountant is on record at Page Nos. 48-49 to the Petition.

11. The necessary documents viz. Aadhar and Pan Card and supportive financial documents have been placed on record at Page Nos. 35-42 & 50-62 to the Petition.

12. The Childcare Plan Statement by the Adoptive Mother is placed on record at Page 63 to the Petition. The Home Study Report

Part I : Self Assessment by the Prospective Adoptive Parents is placed on record at Pages 64-71 to the Petition. Further, the Part II : Assessment Report dated 3rd March, 2022 by the Assistant Project Director, Dist. Women & Child Development Agency, Ananthapuramu District, Andhra Pradesh has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is placed on record at Pages 72-75 to the Petition.

13. There is a Child Security Undertaking dated 20th August, 2022 given by the Prospective Adoptive mother's sister and brother-in-law residing at Mysuru, Karnataka to look after the said male minor in case of any mishap to the Prospective Adoptive Parents. The said Undertaking has been placed on record Page Nos. 85-87 to the Petition.

14. There is a Medical Examination Report dated 4th April, 2022 of the said male minor which states, "*The child is physically and mentally normal. He has urinary problem i.e. he passes some urine waits for few seconds and passes urine again. This is because of vesicoureteral reflux. Health status : special need.*" This report is on record at Page Nos.91-97 to the Petition. The Prospective Adoptive Parents have countersigned the said Report.

15. The HIV report of the said male minor dated 23rd June, 2020 certifies the case as Non Reactive. This report is on record at Page 99 to the Petition. There is Post Card Size Photograph of the said male minor on record at Page 100 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Pradnesh' be renamed as "Aihan Zohib Khan".

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents state that they are willing to be appointed and declared as the Adoptive Parents of said male minor "Pradnesh". This declaration is at Page No. 43 to the Petition.

18. The Pre-adoption Foster Care Undertaking 20th August, 2022 is on record at Pages 44-45 to the Petition.

19. An undertaking dated 5th September, 2022 by the Dist. Women & Child Welfare & Empowerment Officer, Ananthapuramu, Andhra Pradesh for furnishing Post Adoption follow-up Report is on record at Page 106 to the Petition.

20. The Petitioner Institution's recognition from the Women &

Child Development, Maharashtra State to place children in adoption is valid up to 7th March, 2024.

21. Mr. O. Hareendran, the Scrutiny Officer has tendered Report dated 12th July, 2023 which is taken on record and marked 'X-1' for identification.

22. 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 male minor child, if he is adopted by the Prospective Adoptive Parents.

23. 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

¹ WP No.1085 of 2023

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.”

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

25. 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 male minor. They will not withdraw the said invested amount till the said male minor attains majority. The undertaking is accepted as undertaking to

this Court.

26. 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 **Aihan Zohib Khan** 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 **Aihan Zohib Khan** born on 27th May, 2020 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 ‘PRADNESH’ to **“Aihan Zohib Khan”** born on 27/05/2020.*

27. The Judges Order is accepted and signed separately.

28. The Indian Adoption Petition is accordingly disposed of.
29. No order as to costs.
30. All concerned will act on production by fax or email of a digitally signed copy of this Order.

[R.I. CHAGLA, J.]