

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 1 OF 2023
WITH
JUDGE'S ORDER NO. 20 OF 2023

Maharashtra State Women's Council Adoption ...Petitioner

Versus

Srinivas Rao Nannapaneni & Anr. ...Respondent

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 : 15 June 2023

ORDER :

1. By way of this Foreign Adoption Petition, the Petitioner has sought appointment of the Proposed Adoptive Parents as parents of the female minor Jiya (“**the said female minor**”) now in the care of the Maharashtra State Women's Council Adoption Group, Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009.

2. Scrutiny Report dated 11th May 2023 of Mr. O. Hareendran, Scrutiny Officer is tendered and taken on record and marked “X” for identification.

3. The learned Counsel appearing for the Petitioner has tendered compilation of documents which includes the Adoption Application copy, original undertaking of Authorised Foreign Adoption Agency, “Nightlight Christian Adoptions”, the Affidavit in Support of the Petition duly signed by the Convenor of the Institution as well as copy of the Income Tax Returns filed by the proposed adoptive parents for the year 2021 which compilation is taken on record and marked “X” for identification.

4. The biological parents have expired and the said female minor was admitted to Asha Sadan Balgruh on 12th February 2021 as per order of Child Welfare Committee (CWC), Mumbai City-I.

5. The maternal aunt of the said female minor on 12th May 2022 executed the Deed of Surrender before the CWC, Mumbai City-I and the said female minor was transferred to the Petitioner institution as per the order of the CWC City-I dated 12th May 2022

under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The transfer order of the CWC, Mumbai City-I is on record at page 80 to the Petition.

6. The Juvenile Justice (Care and Protection of Children) Act, 2000 was substituted by Juvenile Justice (Care and Protection of Children) Act, 2015. The said Act came to effect on 15th January 2016. After making 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 female minor Legally Free for Adoption on 14th July 2022. The Free For Adoption Certificate is on record at pages 81 to 82 to the Petition.

7. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate (dated 14th December 2022) to this adoption as per Adoption Regulations 2022 and Article 17(c) of the Hague Convention on the Protection of the Children and Cooperation in respect of Inter Country Adoption 1993. The No Objection Certificate is on record at page 183 to the Petition.

8. The Proposed Adoptive Parents are American nationals

of Indian origin (OCI Card holders) both residing at Michigan, U.S.A. aged about 56 and 50 years respectively. They have been married for the past 19 years since 29th November 2003 with no biological children.

9. The Proposed Adoptive Parents passport and OCI card copies and joint photograph are on record at pages 28-39 and 69 to the Petition.

10. The medical Report dated 23rd October 2023 of the Proposed Adoptive Father is on record and states that he is on insulin and under treatment of diabetes with an Endocrinologist. However, his health does not disqualify him in parenting a child. His HIV and Hepatitis B test report certify the case as Non-Reactive. These Reports can be found at pages 58 to 62 to the Petition.

11. The Medical Report dated 20th December 2022 of the Proposed Adoptive Mother is on record and states that her health does not disqualify her in parenting a child in anyway. Her HIV and Hepatitis B test reports certify the case as Non-Reactive. These Reports can be found at pages 64 to 66 to the Petition.

12. The Proposed Adoptive Father is self-employed (Managing Partner of Ishaan Enterprises LLC, Michigan) since 2003 and his annual income is \$ 96,000. His Income/Employment Declaration and U.S. Individual Income Tax Returns 2017 to 2020 are on record at pages 178 and 183-192 to the Petition.

13. The Proposed Adoptive Mother is working as a Software Engineer Principal on a full time basis with Siemens Digital Industries Software Inc. Michigan since 16th February 2004 and she presently earns \$ 147,996.77 per annum. Her Income and Employment Certificate, wage and tax statement and pay slips are on record at pages 180 and 193-208 to the Petition.

14. In the copy of U.S. Individual Income Tax Returns filed by the Proposed Adoptive Parents for the year ending 2021, it shows a gross income of 200,650 by the Prospective Adoptive Parents.

15. The childcare arrangement plan undertaking by the Prospective Adoptive Parents is on record at pages 225-226 to the Petition. The Home Study Reports dated 8th May 2020 and 16th

March 2022 by the authorities of “Adoption Associates, Inc., Michigan, USA” and the reports have found the Prospective Adoptive Parents suitable for adopting the said female minor. These Reports can be found at pages 108 to 143 to the Petition.

16. The Psychological Evaluation Report dated 1st April 2020 of the licensed Psychologist Alan E. Godwin, Psy.D is on record and the Report has found both the Prospective Adoptive Parents to be free of any mental conditions that would make them mentally unstable, unable to function or prohibit their ability to parent a child with special needs. The Psychological Report is on record at 146 to 157 to the Petition.

17. Further, there is a child Scrutiny Undertaking dated 7th January 2023 of the Prospective Adoptive Father’s brother in law and cousin residing at California, USA to take care of the said female minor in case of any unforeseen mishap to the Proposed Adoptive Parents is on record at pages 227-232 to the Petition.

18. The Medical examination report of the said female minor dated 14th July 2022 is on record and states a History of

mother being HIV positive at the time of the child's birth. Overall observation of the said child: A normal, healthy child". The Proposed Adoptive Parents have countersigned this report which is at pages 93 to 97 to the Petition.

19. The I.Q. Report of the said female minor dated 8th July 2022 is on record and states that she gains an intelligent quotient of 124 points, which places her in Superior Level of Intellectual Functioning. The Report is at pages 98-100 to the Petition and has been countersigned by the Proposed Adoptive Parents.

20. The HIV report of the said minor dated 29th June 2022 certifies the case as Non-Reactive. This Report is on record at page 105 to the Petition. The post card size photograph of the minor and her letter of acceptance for adoption are on record at pages 106 and 107 to the Petition.

21. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor "**Jiya**" be renamed as "**Jiya Nannapaneni**".

22. The Declaration of consent and undertaking of the Prospective Adoptive Parents is on record and states that they are willing to adopt the said female minor child Jiya born on 25th January 2022. They further undertake that they will allow personal visits by the representatives of the Authorised Foreign Adoption Agency or the concerned Government Department for follow up of the progress of the child as required under the Adoption Regulations. The said Declaration/Undertaking is on record at pages 247 – 249 to the Petition.

23. The undertaking of the Authorized Foreign Adoption Agency (AFFA) “Nightlight Christian Adoptions”, Texas, U.S.A. dated 9th September 2022 for furnishing post adoption follow up reports of the child and making alternative arrangements in case of disruption of the adoptive family is on record at page No. 243-244 to the Petition and the original undertaking has been taken on record.

24. The General Power of Attorney dated 6th June 2022 duly signed by the Proposed Adoptive Parents in favour of the Petitioner institution is on record at 251 – 253 to the Petition.

25. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid upto 5th May 2025.

26. 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 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

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

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."*

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

28. The Petitioners have undertaken to deposit an amount of Rs. 1,00,000/- (Rupees One Lakh only) in the name of the said female minor in any Nationalised Bank which is also stated in the Judge's Order.

29. Having considered the documents placed on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, in my view, it would be in the interest of the said female minor, if she is adopted by the Prospective Adoptive Parents. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (f) of the Petition, which read thus:-

“(a) This Hon’ble Court may be pleased to appoint the Proposed Adoptive Parents as the parents of the female minor Jiya now in the care of the Maharashtra State Women’s Council Adoption Group, Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009,

(b) That the Proposed Adoptive Parents be allowed to change the name of the minor, from ‘Jiya’ to ‘Jiya Nannapaneni’.

(c) That the Proposed Adoptive Parents may be granted leave to remove the aforesaid child, Jiya @ Jiya Nannapaneni from the jurisdiction of this Hon’ble Court and to take the minor out of India along with them, to their home i.e. wherever their may require her to,

(d) That the Petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth

Certificate of female minor Jiya Nannapaneni' showing the names of the Proposed Adoptive Parents as her parents.

- (e) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor Jiya Nannapaneni' 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 Jiya Nannapaneni' within ten days from the date of application, as per sub-regulation (4) of the regulation 18 and regulation 38.*

30. It is directed that the Petitioner institution shall obtain a further undertaking from the Adoptive Parents that they shall not give the said female minor child in further adoption without prior leave of the Court. Once this undertaking is obtained, the same shall be filed on record of this Court.

31. The Judge's Order is accepted and signed separately.

32. The Foreign Adoption Petition is accordingly, disposed of.

33. No order as to costs.

34. This order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[R.I. CHAGLA J.]