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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
AND  
IN ITS GENERAL AND INHERENT JURISDICTION  
  
FOREIGN ADOPTION PETITION NO.3 OF 2023  
WITH  
JUDGE'S ORDER NO.24 OF 2023**

**Maharashtra State Women's Council Adoption ...Petitioner  
Group at Maharashtra State Women's Council**

***Versus***

**Sunil Goraksha Patil and Anr. ...Respondents**

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Ms. Dipal S. Mehta, for the Petitioner.  
Mr. O Hareendran, Scrutiny Officer.  
Mr. D.S. Gurav, Chamber Registrar.

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**CORAM : R.I. CHAGLA J**

**DATE : 22 JUNE 2023**

**ORDER :**

1. The Foreign Adoption Petition is filed for adoption of female minor 'Siya' born on 29th March, 2020 by foreign nationals i.e. U.S. Citizens. The female minor Siya was found abandoned by Byculla Police Station on 24/06/2020 and produced before the Child Welfare Committee (CWC) Mumbai City-I. Thereafter, the child's

custody was given to the Petitioner Institution on the same day. The female minor Siya was transferred to the Petitioner Institution at Umerkhedi on 16th December, 2020 for the purpose of future rehabilitation as per the order of the said CWC dated 16/12/2020 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 No. 94 to the Petition.

2. The CWC, Mumbai City after making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the Child Welfare Committee, Mumbai City I declared the minor **Siya “Legally Free for Adoption” on 09/11/2022.** The Free for Adoption Certificate is on record at Page Nos. 95-96 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 22/05/2023 to the adoption as per Adoption Rules 2022 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption 1993. The said No Objection Certificate can be found at Page No. 98 of the Petition.

4. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of child is on record at Page Nos. 88-93 to the Petition. The proposed adoptive parents are American nationals of Indian origin (OCI Card holders) both residing at Maryland, U.S.A. aged about 42 and 41 years respectively. They have been married for the past 10 years (31/05/2013) with no biological children. The Proposed Adoptive Parents Passport & OCI card copies and joint Photograph are on record at page Nos. 27-39 & 87 of the Petition. The Motivation Letter of the Proposed Adoptive Parents is on record at page Nos. 22 to the Petition.

5. The Medical Reports of the Proposed Adoptive Parents is on record and it states “The health of the prospective adoptive parents do not disqualify them in parenting a child in anyway”. The HIV report of the adoptive father certifies the case as Negative and his HbsAg test reports certifies the case as “have immunity”. The HIV & HbsAg report of the adoptive mother certifies the case as Negative. These reports can be found at Page Nos. 68-81 of the Petition.

6. The proposed adoptive father is working as as a Research

Professional with Siemens Medical Solutions, USA, Inc. Maryland since October 13, 2009 and his annual salary is \$154,215.00. His Employment Certificate and Salary Slips are on record at page Nos. 171 & 179-188 to the Petition. The proposed adoptive mother is an author and illustrator of children's books.

7. The proposed adopters Proof of Residence and US Individual Income Tax Return 2021 and 2022 are on record at page Nos. 43-44 & 175-178 of the Petition.

8. There is a childcare arrangement plan declaration by the proposed Adoptive parents which has been placed on record at page No. 193 of the Petition.

9. The Home study report dated 15th August, 2022 by the authorities of "Cradle of Hope Adoption Center, Inc." Maryland, U.S.A. has recommended and approved the proposed adopters to adopt one child of either gender, newborn to 4 years of age at the time of referral, who is of Indian origin and as healthy as possible. This report is at page Nos. 123-141 to the Petition.

10. There is a Psychological Assessment report dated 17/06/2022 by the PsychCare-Psychological Services, LLC, Maryland, USA and it states that based on the clinical interview, and testing results, there is no evidence of psychopathology that should prevent this couple from adopting and parenting a child. The report is on record at Pages 143 to 148 to the Petition.

11. The Provisional Approval Notice dated 30th March, 2023 by the Department of Homeland Security, U.S. Citizenship and Immigration Services and Permission from the Receiving Country ("Article 5" Letter) from the Embassy of the United States of America dated 20th April, 2023 is on record at page Nos. 164-167 to the Petition.

12. The child Security undertaking dated 23rd May, 2023 of the adoptive mother's cousin brother and sister-in-law residing at Santacruz, Mumbai to take care of the child in case of any unforeseen mishap to the Proposed Adoptive Parents is on record at page Nos. 196-196D of the Petition.

13. The Medical examination report of the

minor Siya dated 23rd November, 2022 states “A normal, healthy child. The proposed adoptive parents have countersigned this report. There is an additional H.I.V. report of the minor dated 4th September, 2020 which certifies the case as Non-Reactive. This report is at page No. 121 of the Petition. The post card size photograph of the minor is placed on record at page No. 122 of the Petition.

14. The proposed adopters have desired to change the name of the female minor ‘Siya’ to be renamed as ‘Hridaya Sunil Patil’.

15. There is Declaration of consent and undertaking of Proposed Adoptive Parents on record and it states that they are willing to adopt the minor child Siya born on 29th March, 2020. They have further undertaken that they will allow personal visits by the Social Worker of Authorized Foreign Adoption Agency (AFFA) during post-adoption follow-up. The said Declaration / undertaking has been placed on record at page Nos. 207-213 to the Petition.

16. The undertaking dated 29/03/2023 of the Authorized Foreign Adoption Agency (AFFA) “International Adoption

Net” USA to provide follow-up report of the child and make alternative arrangement in case of disruption of the adoptive family is on record at page Nos. 206 and 216 - 217 of the Petition.

17. The copy of General Power of Attorney dated 10th April, 2023 duly signed by the Proposed Adoptive Parents in favour the Petitioner institution is on record at page Nos. 219-221 of the Petition.

18. The Petitioner Institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 5th May, 2025.

19. The learned Counsel for the adoptive proposed parents has tendered an Affidavit dated 6th June, 2023 of Mrs. Bela Mahimtura, the Convenor of Maharashtra State Women’s Council verifying the Petition and believing the statement made therein to be true and undertaking to abide by the directions and / or orders passed by this Court in the captioned Petition.

20. The deponent has also stated that she has no

objection if the prayers mentioned in this Petition are granted by this Court in favour of the prospective Adoptive Parents. She has waived service of the Notice. The Affidavit dated 6th June, 2023 is taken on record. In addition, there is an English translation of documents at Exhibit A6 which is at page 52 to the Petition and E 100 to the Petition which are tendered and taken on record.

21. Mr. O. Hareendran, Scrutiny Officer has tendered the original report dated 12th June, 2023 which is taken on record and marked 'X' for identification.

22. Having considered the documents placed on record as well as the report of Mr. O. Hareendran, Scrutiny Officer which has been marked 'X', in my view it would be in the interest of female minor, if she is adopted by the proposed adoptive parents.

23. It is necessary to note that the Division Bench of this Court in *Nisha Pradeep Pandya @ Nisha Amit Gor and Anr. Vs. Union of India and Ors.*<sup>1</sup> concerning challenge raised to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021,

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<sup>1</sup> W.P.(L) No.32065 of 2022

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 the challenge is finally decided.”*

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

25. In the circumstances, the Petition is made absolute in terms of prayer clauses (a) to (f) which read thus:-

*(a) This Hon'ble Court may be pleased to appoint the proposed adoptive parents as the parents of the female minor, Siya 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 'Siya' to 'Hridaya Sunil Patil'.*

*(c) That the proposed adoptive parents may be granted leave to remove the aforesaid child, Siya @ Hridaya Sunil Patil 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 'Hridaya Sunil Patil' 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 'Hridaya Sunil Patil' 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 'Hridaya Sunil Patil' within ten days from the date of application, as per sub-regulation (4) of the regulation 18 and regulation 38,*

26. It is directed that the Petitioner Institution shall obtain a further undertaking from the adoptive parents that they shall not give the minor child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

27. The Judges Order is accepted and signed separately.

28. The Foreign Adoption Petition is accordingly disposed of. No order as to costs.

29. 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.]**