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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO.24 OF 2023
WITH
JUDGE'S ORDER NO.47 OF 2023

St. Catherines Home

...Petitioner

And

Gopinath Khatua and Mrs. Debjani Poddar

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor, i/b. M/s. Rakesh Kapoor & Co. for the Petitioner.

Mr. O.Hareendran, Scrutiny Officer is present.

Mr. Dilip Guruv, Chamber Registrar is present.

CORAM : R.I. CHAGLA J.

DATE : 31 AUGUST 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents has sought adoption of the female minor Riddhi @ Garima ("the said female minor") born on 11th June, 2020. The said female minor was found abandoned by Virar Police Station on 10th February, 2021 and produced before the Child Welfare Committee (CWC)-II, Mumbai Suburban District, Borivali West on 11th February, 2021 and the child's safe custody was given

to the Petitioner institution on the same day as per the order of the said CWC dated 11th February, 2021 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The said order of the CWC is placed on record at page 21 to the Petition.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai Suburban District declared the said female minor Riddhi “Legally Free for Adoption” on 22nd April, 2022. The Free for adoption order is placed on record at page No. 20 to the Petition.

3. The Prospective Adoptive parents are Indian nationals, residing at Kolkata, West Bengal, both aged about 44 years having been married for the past 17 years (27th June, 2006). They have no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents has been placed on record at page 29 to the Petition.

5. The Decision of the Adoption Committee dated 10th February, 2023 has been placed on record at pages 19-20 to the Petition. The Committee has decided that the prospective adoptive

parents are suitable to adopt the said female minor Riddhi.

6. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor Riddhi is placed on record at pages 118-122 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 1st May, 2023 is on record and it states, "Health history: No significant past medical illness. Present health status: well and fit". Their HIV and Hepatitis B test reports certify the case as Non-Reactive. These reports have been placed on record at pages 25 to 28 to the Petition.

8. The Prospective Adoptive father is working as an Assistant Teacher at Jatragachi Pranabananda High School, North 24 Parganas since 25th April, 2005 and his gross annual income for the financial year 2022-23 is of Rs. 7,74,280/-. His income and Employment Certificate, Salary Statement, pay slip and Tax returns have been placed on record at pages 43-52 to the Petition.

9. The Prospective Adoptive mother is working as an Assistant Teacher at Annada Sundari Hindu Balika Vidyapith since

23rd September, 2009 and her annual income for the financial year 2022-23 is Rs. 9,40,728/-. Her Income & Employment Certificate, Salary Statement, Pay slip and Tax Returns have been placed on record at pages 53-62 to the Petition.

10. The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents have been placed on record at pages 30-34 and 63-74 to the Petition.

11. The Child Care Plan declarations by the Prospective Adoptive Mother and her mother-in-law have been placed on record at pages 75-78 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is placed on record at pages 79-86 to the Petition.

13. The Part II: Assessment Report dated 19th August, 2022 of the social worker of Specialized Adoption Agency, “Mukti Rehabilitation Centre”, West Bengal has found the Prospective Adoptive Parents suitable for adopting a child. The said report is placed on record at pages 87-92 to the Petition.

14. The Child Security Undertaking dated 14th February, 2023 given by the Prospective Adoptive mother's brother and sister-in-law residing at Kolkata, West Bengal to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is placed on record at pages 98-103 to the Petition.

15. The Medical Examination Report of the said female minor Riddhi dated 7th January, 2023 is on record and it states that she has achieved all the expected motor and social milestones for her age. The Prospective Adoptive Parents have countersigned the Medical Examination Report. The said Medical Examination Report has been placed on record at pages 107-114 to the Petition.

16. As regards the change of name, the Adoptive Parents desire that the said female minor 'Riddhi' be renamed as "Garima Khatua".

17. The HIV test report of the said female minor dated 17th February, 2021 certifies the case as Negative. The said report has been placed on record at pages 116 to the Petition.

18. The Post Card Size Photograph of the minor is at

page 117 to the Petition.

19. The Declaration of consent, willingness 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 Riddhi born on 11th June, 2020. The said Declaration is at pages 35-36 to the Petition.

20. The Pre-adoption foster care undertaking dated 14th February, 2023 is placed on record at pages 37-42 to the Petition.

21. The undertaking dated 7th February, 2023 by the authorities of “Mukti Rehabilitation Centre” West Bengal for furnishing post adoption follow-up reports has been placed on record at page 123 to the Petition.

22. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 5th May, 2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered representation / report of the Indian Council of Social Welfare dated

28th August, 2023 which is taken on record and marked 'X' for identification.

24. Having considered the material on record as well as the report of the Scrutiny Officer, I am of the view that it is in the interest of the said female minor to be adopted by the Prospective Adoptive Parents.

25. 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.***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

¹ W.P.(L) No.32065 of 2022

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.”

26. Thus, there is no impediment in granting the relief

sought for in the Petition.

27. In the circumstances, the Indian Adoption Petition is allowed in terms of prayer Clauses (a) to (d), which read as under :

(a) That the Prospective Adoptive Parents be given the said child Garima Khatua 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 Garima Khatua 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 Garima Khatua, born on 11/06/2020 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'RIDDHI' to "Garima Khatua" born on 11/06/2020.

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.2 lakh in the name of the adopted child till the adopted child attains the age of majority. The

Adoptive Parents agree to handover the investment receipts to the adopted child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

29. The Judge's Order is separately signed.

30. The Indian Adoption Petition is accordingly disposed of. There shall be no order as to costs.

31. 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.]