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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. 8 OF 2023
WITH
JUDGE'S ORDER (L) NO. 17864 OF 2023

Bal Asha Trust

...Petitioner

Versus

Daniele Di Lisi, Italian National and anr.

...Respondents

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

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare
present.

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

CORAM : R.I. CHAGLA J

DATE : 10 August 2023

ORDER :

1. This Foreign Adoption Petition is filed seeking the
adoption of a male minor Aditya Ganesh Chavan (“**the said male
minor**”) born on 11th December 2013. The said male minor was
found abandoned by Nagpada Police Station, Mumbai on 21st May

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2021 and admitted in B. J. Home, Mumbai on the same day. On 16th June 2021, the Child Welfare Committee (CWC), Mumbai City-I transferred the said male minor child to the Petitioner institution Bal Asha Trust, Mumbai for further rehabilitation as per the order of the said CWC dated 16th June 2021 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. The Transfer Order of the CWC has been placed on record at page No.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 City-I declared the said male minor “Legally Free for Adoption” as on 29th November 2021. The Free for Adoption Order and Certificate have been placed on record at page Nos. 17-20 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 2nd March 2023 to this adoption as per Adoption Regulations 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 has been placed on record at Page No. 29 to the Petition.

4. The undertaking/affidavit by the Petitioner Institution has been placed on record at page Nos. 23-28 to the Petition.

5. The Proposed Adopters are Italian Nationals, residing at Pandino, Italy, both aged about 46 years. They have been married for the past 17 years (20th May 2006) with no biological children.

6. The Proposed Adopters Joint Family Photograph and copies of Passport have been placed on record at page Nos. 30-39 to the Petition.

7. The health reports dated 18th March 2022 of the prospective adoptive parents state that both enjoy good psychophysical health and not affected by any pathology, which might compromise their capacity to be adoptive parents. Their HIV and HBsAg test report certifies the case as Non-reactive. The said reports have been placed on record at Page Nos. 55-72 to the Petition.

8. The Prospective Adoptive Father is working as a C3 Level

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Driver, Italy with Haulage Company Sorosina SRL, Italy since 23rd April 2019 and his income for the year 2021 is Euro 25,818.66. His Employment Certificate & Income Tax certificate for the Tax year 2021 has been placed on record at page Nos. 75-86 to the Petition.

9. The Prospective Adoptive mother is working as a Skilled Worker with the Company Bauli, Romanengo, Italy since 7th March 2011 and her income for the year 2021 is Euro 15, 559.76. Her Employment certificate & Income Tax certificate for the Tax year 2021 have been placed on record at page Nos. 87-98 to the Petition.

10. The Financial Declaration and Certificate of Residence have been placed on record at page Nos. 99-111 to the Petition.

11. The Childcare Arrangement Plan statement from the proposed adopters has been placed on record at page No. 112 to the Petition.

12. The home study report dated 11th April 2022 by the authorities of “CIFA For People-International Centre for Children and Family”, Torino, Italy has found the proposed adopters suitable for

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adopting a child. The said home study report has been placed at page Nos. 116-145 to the Petition.

13. The Psychological Evaluation Report of the prospective adoptive parents dated 14th April 2022 by the Psychologist of CIFA- International Centre for Children and Family, Torino, Italy has recommended the couple for the adoption of the said male minor child from India. The said report has been placed on record at page Nos. 146-150 to the Petition.

14. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention has been placed on record at page Nos. 152-161 to the Petition.

15. The Medical Examination report of the said male minor dated 7th April 2022 states, "Health Status: Special Needs. Overall observation of the child: Aditya is under treatment for Tubercular Cervical Lymphadenopathy. He is the case of MDR with Cervical Lymph Node TB. The Standard Anti Tubercular therapy was started on 20th December 2021 and changed to second line drugs in view of MDR. He seems to be responding clinically. He is developmentally

normal for his age”. The Proposed Adopters have countersigned this Report along with additional investigation reports. The said reports have been placed on record at page Nos. 195-211 to the Petition.

16. The Report of Psychological Testing of the said male minor dated 1st August 2022 states that Aditya has average intellectual and social functioning. The Report of Language Speech and Hearing states that he has no significant delay in speech and language acquisition. The Proposed Adopters have countersigned these reports. The said reports have been placed on record at page Nos. 212-218 to the Petition.

17. The H.I.V. report of the said male minor dated 3rd February 2022 certifies that the case is Non Reactive. This report has been placed on record at page No. 226 to the Petition. The Post Card Size Photograph of the said male minor has been placed on record at page No. 227 to the Petition.

18. The Declaration of consent, willingness and undertaking of the Proposed Adopters states that they have consented to the above adoption and they agree and undertake to do all such acts,

deeds and things as may be necessary in the interest of the mental and physical welfare of the said male minor child. They further undertake that they will allow personal visits by the Representative of the Authorized Foreign Adoption Agency (AFFA) during post-adoption follow-up. The said declaration has been placed on record at page Nos. 228-232 to the Petition.

19. The undertaking dated 11th November 2022 of the Authorized Foreign Adoption Agency (AFFA) “CIFA For Children-International Centre for Children and Family”, Torino, Italy to provide follow-up reports of the said male minor child and make alternative arrangements in case of disruption of the adoptive family has been placed on record at page Nos. 235-236 to the Petition.

20. As regards the change of name, the proposed adopters desire that the minor ‘**Aditya Ganesh Chavan**’ be renamed as “**Aditya Ganesh Chavan Andrea**”.

21. The Power of Attorney dated 2nd December 2022 duly signed by the proposed adopters in favour of the Petitioner-Institution has been placed on record at page Nos. 239-246 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 Report/Representation of Indian Council of Social Welfare dated 7th August 2023, which is taken on record and marked 'x' for identification.

24. Having considered the material on record as well as the Report/Representation of the Scrutiny Officer dated 7th August 2023, in my view, it would be in the interest of the said male minor child, if he is adopted by the Proposed Adoptive Parents.

25. 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 :

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

“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.”*

26. Hence, there is no impediment in granting relief sought for in this Petition.

27. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) to the Petition, which read thus:-

- (a) For the Adoption of the proposed minor Aditya Ganesh Chavan Andrea born on 11/12/2013 by the proposed Adopters under Section 59(7) of the Juvenile Justice Act, 2015.
- (b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Aditya Ganesh Chavan Andrea and having all parental rights, privileges and responsibilities over the said minor now in the care and custody Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai – 400 011.
- (c) That the proposed adopters be allowed to change the name of the minor 'Aditya Ganesh Chavan' to "Aditya Ganesh Chavan Andrea".
- (d) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Aditya Ganesh Chavan Andrea born on 11/12/2013 and

showing the proposed adopters as Parents.

- (e) That the Proposed Adopters may be granted leave to remove the said minor Aditya Ganesh Chavan Andrea from the jurisdiction of this Hon'ble Court and to take the said minor to ITALY or wherever they may reside in future.

28. The Judge's Order is also signed separately.

29. It is directed that the Petitioner Institution shall obtain a further undertaking from the adoptive parents that they shall not give the said male 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.

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

[R.I. CHAGLA J.]