

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO. 15 of 2023

WITH

JUDGE'S ORDER NO. 32 OF 2023**

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

Versus

Shakti Bitra & Anr. ... Co-Petitioners/Proposed Adopters

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

CORAM : R.I. CHAGLA, J.

DATED : 27th JULY, 2023.

ORDER :

1 This Petition has been jointly filed by the Petitioner which is the Maharashtra State Women's Council Adoption Group, a registered Specialized Adoption Agency, duly recognized under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('the said Act') by the State of Maharashtra. The co-petitioners are the proposed adoptive parents.

2 The learned Counsel appearing for the Petitioner and the Co-Petitioners has tendered a compilation of requisite documents viz. Aadhar Cards of the Proposed Adoptive Parents and Pan Card of the Proposed Adoptive mother; Income Tax Return of Proposed Adoptive father's Partnership Firm and follow up report of Shri Shradhanand Anathalaya, Nagpur dated 30.06.2023, which is taken on record and marked 'X' for identification.

3 Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare, has tendered representation/report dated 25.07.2023 which is taken on record and mark 'X-1' for identification.

4 By this Indian Adoption Petition, the Petitioner and Co-Petitioners/Proposed Adopters are applying for adoption of female minor Laxmi ('the said female minor') born on 17.04.2022 and admitted to the Petitioner's institution on 09.05.2022 by the biological mother for the child's temporary shelter and care. On 12.05.2022 the biological mother executed a Deed of Surrender before the Child Welfare Committee (CWC), Mumbai City-I and the child's custody was given to the Petitioner on the same day as per order of the CWC, Mumbai City-I, under the said Act. The CWC order has been placed on record at page No.20 to the Petition.

5 After making due enquiry under Section 38 of the Act, the CWC, Mumbai City-I declared the said female minor “Legally Free for Adoption” as on 14.07.2022. The Free for Adoption order has been placed on record at page Nos. 21-22 to the Petition.

6 The Prospective Adoptive Parents are Indian nationals presently residing at Nagpur, aged about 42 years and 40 years respectively, having been married for the past 13 years (21.11.2009) with no biological children.

7 The Motivation Letter of the Proposed Adopters is on record at Page No. 25 to the Petition.

8 There is an affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor which has been placed on record at page Nos. 126-132 to the Petition.

9 The decision of Adoption Committee at the meeting dated 25.08.2022, wherein it was decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child born on 17.04.2022 has been placed on record at page Nos. 18-19 to the Petition.

10 The Medical Report of the Prospective Adoptive Parents dated 30.05.2022 states that they do not suffer from any chronic, contagious or fatal disease. Their HIV and HBsAg test reports certify their case as Non-Reactive. The Medical Reports have been placed on record at page Nos. 28-41 to the Petition.

11 The Prospective Adoptive father is working as a Planning Engineer with North Oil Company at Qatar and earns USD 300+ allowances per day. Salary slips/Remittance Advice have been placed on record and it states for the month of March, 2023 USD 8780, April USD 3,720 and May USD 13,410 respectively. As per the Home study Report, the Prospective Adoptive father's annual salary is Rs. 50,00,000/-. His letter of employment, salary slips and Income Tax Returns acknowledgment have been placed on record at page Nos. 58-69 to the Petition. The Prospective Adoptive mother is a Homemaker.

12 The proof of residence (Leave and License agreement), Prospective Adoptive father's Pan Card copy and supportive financial documents have been placed on record at page Nos. 46-52, 81 and 70-80 to the Petition. Copies of the Adhar Card of the Prospective Adoptive Parents and Pan Card copy of of Prospective Adoptive mother as aforementioned has been taken on record and mark 'X' for identification.

13 Childcare arrangement plan statement of Proposed Adoptive Mother is placed on record at page No. 84 to the Petition.

14 There is a home study Report Part I Self Assessment by the Prospective Adoptive Parents which has been placed on record at page Nos. 88-93 to the Petition.

15 The Part II - Assessment Reports of the Social Worker of 'Shri Shradhanand Anathalaya, Nagpur', dated 27.06.2019 and 25.06.2022 have found the Prospective Adoptive Parents suitable for adopting a child. The Reports have been placed on record at page Nos. 86- 87 and 94-97 to the Petition.

16 The child security undertaking dated 30.08.2022 given by the Prospective Adoptive father's brother and sister-in-law residing at Nagpur to look after the said female minor in case of any mishap to the Prospective Adoptive Parents have been placed on record at page Nos. 122-125 to the Petition.

17 The Pre-adoption foster care undertaking dated 04.10.2022 has been placed on record at page No. 55-57 to the Petition.

18 The Joint Declaration of consent and willingness to adopt by the Prospective Adoptive Parents is on record and it states that they are

willing to be appointed and declared as the Adoptive Parents of the said female minor Laxmi, born on 17.04.2022. The Prospective Adoptive Parents have further agreed and undertaken to the Petitioner institution and to this Court that they will not give the said female minor child in further adoption to anyone residing outside India. The said declaration has been placed on record at page Nos. 53-54 to the Petition.

19 The Medical Examination of the said female minor Laxmi dated 29.07.2022 states “overall observation of the child: The child is extremely weak; weight is below 5th percentile. Developmental milestones are normal, a normal, healthy child”. The said medical examination Report is at page Nos. 115-119 to the Petition. The Proposed Adopters have countersigned the said Report.

20 The HIV Report of the said female minor dated 25.07.2022 certifies the case as Non-Reactive. This Report has been placed on record at page No. 120 to the Petition.

21 There is a post card size photograph of the said female minor which is on record at page No. 24 to the Petition.

22 As regards the change of name, the Prospective Adoptive Parents desire that the said female minor “**Laxmi**” be renamed as

“Amairaa Shakti Bitra”.

23 The undertaking dated 02.09.2022 given by the authorities of Shri Shradhanand Anathalaya, Nagpur, for furnishing post adoption follow-up reports has been placed on record at page No. 121 to the Petition.

24 The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 05.05.2025.

25 Having considered the relevant material on record and the Report of the Scrutiny Officer, in my view, it would be in the interest of the said female minor child, if she is adopted by the Proposed Adoptive Parents.

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 :

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.”*

27 Hence, there is no impediment in granting the relief paid for in the above Petition.

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

“(a) This Hon’ble Court may be pleased to appoint the Co-Petitioners, Shakti Bitra and Eti Bitra as the adoptive parents of the female minor, Laxmi @ Amairaa Shakti Bitra, in the care of the Maharashtra State Women’s Council Adoption Group at Maharashtra State Women’s Council Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai-400 009.

(b) That the Co-Petitioners be allowed to change the name of the minor from ‘Laxmi’ to ‘Amairaa Shakti Bitra’.

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon’ble Court and to take the minor alongwith them, i.e. to the Co-Petitioners’ family wherever they may reside or their work may require them to;

(d) That the concerned Municipality/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate

for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations.”

29 The Judge’s Order is also separately signed.

30 The learned Counsel appearing on behalf of the Adoptive Parents states that she has instructions to make a statement that the Adoptive Parents shall invest Rs.1,00,000/- (Rupees One Lakh only) in L.I.C. including premium in claim policy in the name of the said female minor child till she attains the age of majority. She states that the Adoptive Parents have further agreed to handover the investment receipts to the adopted child on her becoming major. The statement is accepted as an undertaking to this Court.

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

(R.I. CHAGLA, J.)

Digitally signed
by WAISHALI
SUSHIL
WAGHMARE
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