

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

**INDIAN ADOPTION PETITION NO. 22 of 2023
WITH
JUDGE'S ORDER (L) NO. 19294 OF 2023**

Indian Association for Promotion of
Adoption & Child Welfare (IAPA) ... Petitioner

And

Prashant Govind Kathe & Anr. ... Proposed Adopters

Ms. Shweta Prabhu for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer, present.
Mr. D.S. Gurav, Chamber Registrar, present.

CORAM : R.I. CHAGLA, J.

DATED : 24th AUGUST, 2023.

ORDER :

1 By this Indian Adoption Petition, the Petitioner and the Proposed Adopters have sought adoption of the male minor Dhurvesh, ('the said male minor') born on 08.07.2019. The said male minor was found abandoned by the Bhoiwada Police Station on 20.12.2019 and produced before the Child Welfare Committee (CWC), Mumbai City –II and the child's custody was given to the Petitioner institution on the same

day as per the order of the CWC dated 20.12.2019 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The custody order dated 20.12.2019 of the CWC has been placed on record at page No.40 to the Petition.

2 After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City II declared the said male minor Dhurvesh “Legally Free for Adoption” on 16.11.2022. The Free for adoption Certificate has been placed on record at page Nos.42-43 to the Petition.

3 The prospective adoptive parents are Indian Nationals, residing at Badlapur, District Thane, Maharashtra, aged about 50 and 45 years respectively. They have been married for the past 11 years (26.04.2012) with no biological children.

4 The Motivation Letter from the Prospective Adoptive Parents has been placed on record at page No.25 to the Petition.

5 Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said minor child Dhurvesh has been placed on record at page Nos.133-136 to the Petition.

6 The learned Counsel appearing for the Petitioner has tendered the decision of the Adoption Committee at the meetings dated 03.02.2023 and 17.02.2023 which is taken on record and marked 'X' for identification. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor child Dhurvesh.

7 The Medical reports of the prospective adoptive parents dated 08.11.2022 states that they do not suffer from any chronic, contagious or fatal disease and are fit for adoption of a child. Their HIV and HbsAg Test reports certify the case as Negative. These reports have been placed on record at page Nos.26-39 to the Petition.

8 The prospective adoptive father is self employed (running Kalpataru Classes at Badlapur, District Thane) and his total income for the Assessment Year 2022-23 is Rs. 4,88,970/-. The Indian Income Tax Return acknowledgment for the Assessment Year 2022-23 has been placed on record at page Nos.68-71 to the Petition. The prospective adoptive mother is working as a Teacher with her husband's coaching classes and her monthly salary is Rs. 12,000/-. Her employment certificate has been placed on record at page No.74 to the Petition.

9 The copies of Aadhar Card and Pan Card, supportive financial documents, Assets & Liabilities statement and proof of residence have

been placed on record at page Nos.62-65, 66-69, 72-73 and 75-76 to the Petition.

10 The Child Care Arrangement Plan Declaration by the prospective adoptive parents has been placed on record at Page No.132 to the Petition.

11 The home study report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos.78-93 and 99A-100 to the Petition.

12 The home study report Part II: Assessment Report dated 20.10.2019 and 16.11.2022 by the Social Worker of Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombivli, District Thane, have found the prospective adoptive parents suitable for adopting a male child up to 4 years. These reports have been placed on record at page Nos.94-99 and 101-106 to the Petition.

13 The child security undertaking dated 22.02.2023 given by the prospective adoptive father’s sister and brother-in-law residing at Badlapur, District Thane to look after the said male minor in case of any mishap to the Prospective adoptive parents has been placed on record at page Nos.128-131 to the Petition.

14 The pre-adoption foster care undertaking dated 22.02.2023 has been placed on record at page Nos.51-56 to the Petition.

15 The Medical Examination Report of the said male minor dated 12.01.2023 states “Health status of the child: Normal and active child. Overall observation of the child: Dhurvesh is a calm & loving boy”. The Medical Examination Report has been placed on record at page Nos. 116-126 to the Petition. The prospective adoptive parents have countersigned the said Medical Examination Report.

16 The HIV report of the said male minor dated 10.07.2023 certifies the case as Negative. This report has been placed on record at Page No.127 to the Peititon. The Post Card Size Photograph of the said male minor is on record at page No.20 to the Petition.

17 As regards the change of name, the prospective adoptive parents desire that the said male minor ‘Dhurvesh’ be renamed as “Durvesh Prashant Kathe”.

18 The consent, willingness and undertaking by the prospective adoptive parents states that they are willing to be appointed and declared the adoptive parents of the said male minor Dhurvesh. This declaration has been placed on record at page Nos.45-46 to the Petition.

19 The undertaking dated 02.02.2023 by the authorities “Janani Ashish Charitable Trust” Dombivli, District Thane, for furnishing post adoption follow-up reports has been placed on record at page No.77 to the Petition.

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

21 The Scrutiny Officer Mr. O. Hareendran has tendered the report/representation of the Indian Council of Social Welfare dated 19.08.2023 which is taken on record and marked ‘Y’ for identification.

22 Having considered the material on record as well as report of the Scrutiny Officer Mr. O. Hareendran dated 21.08.223 which is marked ‘Y’ for identification, I am of the view that it would be in the interest of said male minor child that he is adopted by the proposed adopters.

23 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

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

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 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 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 declare the Proposed adopters as Adoptive Parents of Dhurvesh (male minor) and shall have all parental legal rights, Privileges and responsibility over the said minor Now in the care and custody of Indian Association For Promotion of Adoption & Child Welfare Mumbai.
- (b) This Hon'ble Court may be pleased to grant leave to remove the said minor outside the jurisdiction of this Hon'ble Court whenever required.
- (c) This Hon'ble Court be pleased to further order the Brihan Mumbai Municipal Corporation to issue individual birth certificate in the name of the said minor stating the proposed adopters as Parents. The Proposed Adopters may be granted Leave to apply to the Passport office or any other Authority for the same.
- (d) This Hon'ble Court may grant leave to file Further affidavit if necessary.

26 There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.1 lakh in the name of the adopted child

till the adopted child attains the age of majority. This undertaking is accepted as an undertaking to this Court.

27 The Judge's Order is also accepted and signed separately.

28 It is directed that the Petitioner shall obtain a further undertaking from the Adoptive Parents that they shall not give the said 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.

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

30 At this stage, the learned Counsel appearing for the Petitioner has sought leave to carry out the amendment in the prayer clauses of the Petition to add prayer for change of name of the adopted male minor child 'Dhurvesh' to be renamed as "Durvesh Prashant Kathe".

31 Leave is granted. Amendment shall be carried out forthwith.

32 In view of newly added prayer clause, the Petition is also allowed in terms of prayer clause (f).

(R.I. CHAGLA, J.)