



Rameshwar Dilwale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INDIAN ADOPTION PETITION NO.21 OF 2023

WITH

JUDGE'S ORDER NO.39 OF 2023

IN

INDIAN ADOPTION PETITION NO.21 OF 2023

Bal Asha Trust, Mumbai

...Petitioner

And

1. Abhishek Upadhyay

...Prospective

2. Kamayani Singh

Adoptive Parents

Ms. Rakesh K. L. Kapoor i/by Mr. Rakesh K. L. Kapoor & Co.,
Advocate for Petitioners.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 17TH AUGUST, 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner alongwith the Proposed Adoptive Parents has sought for adoption of the female minor **Ananya** (“the said female minor”) by the respective adoptive parents. The said female minor was born on 14th July 2022

and found abandoned by the Police Unit, Mumbai on 31st July 2022 and produced before the Child Welfare Committee (CWC), Mumbai City-II on 1st August 2022. The child's safe custody was given to the Petitioner institution on the same day as per the order of the (CWC), Mumbai City-II dated 1st August 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The safe Custody Order of the CWC has been placed on record at page no. 25 to the Petition.

2. After making the due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, CWC, Mumbai City II declared the said female minor **Anaya “ Legally Free for Adoption”** on 3rd April 2023. The Free for Adoption Certificate has been placed on record at page nos. 23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, presently residing at Bengaluru, Karnataka, aged about 44 and 39 years respectively. They having been married for the past 8 years (22nd November 2015) with no biological children.

4. The Motivation letter from the Prospective Adoptive Parents

has been placed on record at page no. 37 to the Petition.

5. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Applicant) in support of the adoption of the said female minor Anaya has been placed on record at page no. 145-149 to the Petition.

6. The Decision of Adoption Committee at the meeting held on 27th April 2023 has been placed on record at page nos. 19-22 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor Anaya born on 14th July 2022.

7. The Health Reports dated 20th April 2023 of the prospective adoptive parents state that they are physically and mentally fit and do not suffer from any chronic, contagious or fatal disease. They are fit to adopt a baby girl. Their HIV and HbsAg test Reports certify the case as Negative. These reports have been placed on record at page nos. 29-36 to the Petition.

8. The Prospective Adoptive Father is working as a Marketing Director with Ola Electric Technologies Pvt. Ltd., Bengaluru since 29th November 2021 and his gross monthly (April-2023) salary is

Rs.9,73,200.00/-. His pay slips and Form no. 16 have been placed on record at page nos. 52-64 to the Petition.

9. The Prospective Adoptive Mother is working as a Communications Manager with Facebook India Online Services Pvt. Ltd., Gurgaon since January 2019 and her gross monthly (April-2023) salary is Rs. 5,34,609.00/-. Her pay slips and Form No. 16 have been placed on record at page nos. 65-87 to the Petition.

10. The proof of residence (Rental Agreement), Aadhar and Pan Card copies and supportive financial documents have been placed on record at page nos. 38-47 & 88-98 to the Petition.

11. The childcare arrangement plan by the adoptive parents and the parents of adoptive mother has been placed on record at page no. 99 to the Petition.

12. The home study report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at page nos.100-108 to the Petition.

13. The part II: Assessment Report dated 2nd May 2023 by the Social Worker of “Amulya (G) Shishu Greh” Bengaluru, Karnataka has

found the Prospective Adoptive Parents suitable for adopting a child. The said Report has been placed on record at page nos. 109-112 to the Petition.

14. The child security undertaking dated 13th May 2023 of the Prospective Adoptive Mother's first cousin brother and sister-in-law at Bengaluru to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page nos. 128-131 to the Petition.

15. The Medical Examination Report dated 6th April 2023 of the said female minor child states, "Overall Observation of the child: Anaya is developmentally normal and has grown well in the institution. She received treatment for Right Acute Suppurative Otitis Media". The Proposed Adopters have countersigned the said report. The Medical Examination Report has been placed on record at page nos. 135 to 141 to the Petition.

16. The HIV Report of the said female minor dated 16th November 2022 certifies the case as Non Reactive. The said Report has been placed on record at page no. 143 to the Petition. Post Card Size Photograph of the said female minor has been placed on record

at page no. 144 to the Petition.

17. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor **'Anaya'** be renamed as **"Ahana Upadhyay"**.

18. The Declaration of consent and undertaking by the Prospective Adoptive Parents state that they are willing to be appointed and declared as the adoptive parents of said female minor Anaya born on 14th July 2022. The Declaration of consent and undertaking have been placed on record at page nos. 47-48 to the Petition.

19. The Pre-adoption foster care Affidavit dated 13th May 2023 has been placed on record at page nos. 49-51 to the Petition.

20. The Undertaking dated 26th June 2023 given by the Specialized Adoption Agency "Amulya (G) Shishu Greh" Bengaluru for furnishing post adoption follow-up Reports has been placed on record at page no. 150 to the Petition.

21. 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.

22. Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare has tendered Report dated 7th August 2023, which is taken on record and marked 'X' for identification.

23. Having considered the relevant material on record as well as Report of the Scrutiny Officer, Mr. O. Hareendran marked 'X', in my view, it would be in the interest of the said female minor child, if she is adopted by the Proposed Adoptive Parents.

24. 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 :

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

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.”

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

26. In these circumstance, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which reads as follow:-

(a) That the Prospective Adoptive Parents be given the said child in Adoption be declared as parents and have all

parental legal rights, Privileges and responsibilities over the said minor **Ahana Upadhyay**.

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minor 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 **Ahana Upadhyay** born on 14/07/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to Change the name of the minor from 'ANAYA' to **"Ahana Upadhyay"**.

27. The Judge's Order is also separately singed.

28. The Adoptive Parents have undertaken in the Judge's Order to invest a sum of Rs. 2,00,000/-(Rupees Two Lakh only) in the adopted child's name. They have further undertaken not to withdraw

this investment till the adopted child attains majority. They agree to hand over the investment receipts to the adopted child on her becoming a major.

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

[R.I. CHAGLA, J.]