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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.26 OF 2023
WITH
JUDGE'S ORDER NO.48 OF 2023**

Bal Asha Trust

...Petitioner

And

Hitesh Khatri and Mrs. Tripta Khatri

**...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 Prospective Adoptive Parents have sought adoption of the female minor Sagarika ("the said female minor") born on 4th October, 2022. The said female minor was found abandoned by the Sewri Police Station, Mumbai and admitted to Sir J. J. Hospital, Mumbai on the same day. On 18th October, 2022, the said female minor child was discharged from the Hospital and presented before the Child Welfare

Committee, Mumbai City II and her safe custody was given to the Petitioner Institution on the same day for further care and rehabilitation. On 19th October, 2022 through its order, the said CWC recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Safe Custody Order of the CWC is placed on record at page 25 to the Petition.

2. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai City II declared the minor Sagarika “Legally Free for Adoption” on 13th February, 2023. The Free for adoption Certificate is placed on record at pages 21-22 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Gurgaon, Haryana aged about 42 and 38 years respectively. They have been married for the past 14 years (29th September, 2009) with no biological. However, they have one adopted son now aged about 8½ years (born on 11th November, 2014) from Ahmadnagar, Maharashtra in the year 2015. The child’s Medical report, Birth Certificate, Adoption Order and his consent letter are placed on record at pages 28a-32 to the Petition.

4. The Motivation letter from the Prospective Adoptive Parents is placed on record at page 37 to the Petition.

5. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor Sagarika is placed on record at pages 105-109 to the Petition.

6. The Decision of Adoption Committee dated 06/04/2023 is on record at page Nos. 19-20 and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child Sagarika born on 4th October, 2022.

7. The Health Reports dated 2nd July, 2022 of the Prospective Adoptive Parents states, "They do not have any physical or mental condition which would impair their ability to care for an adoptive child". Their HIV and HBsAg test reports certify the case as Negative. These reports have been placed at pages 33-36 to the Petition.

8. The Prospective Adoptive father is working as a Senior Consultant with WNS Global Services Private Limited, Gurgaon, Haryana since 16th March, 2020 and his gross monthly (March-

2023) salary is Rs. 2,58,638/-. His Pay Slip, Form No. 16 and Income Tax Return for the Assessment Year 2021-22 have been placed on record at pages 46-61 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. Proof of residence (Aadhar card copies) and Pan Card copies and supportive financial documents have been placed on record at pages 38-41A and 62-64 to the Petition.

10. The home study report Part I: Self Assessment by the Prospective Adoptive Parents is placed on record at pages 65-71 to the Petition.

11. The part II: Assessment Report dated 21st July, 2022 by the Social Worker of “Miracle Charitable Society” Faridabad, Haryana is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said Report has been placed on record at pages 72-77 to the Petition.

12. The Child Security Undertaking dated 19th April, 2023 of the Prospective Adoptive Mother’s sister and brother-in-law residing at Barmer, Rajasthan to look after the proposed minor in case of any mishap to the Prospective Adoptive Parents has been

placed on record at page 92 to the Petition.

13. The Medical Examination Report of the minor dated 18th February, 2023 states, “Health Status: Normal. Overall Observation of the child: Sagarika is developmentally normal. She has grown well in the institution”. The Proposed Adopters have countersigned the said report. The said Reports have been placed on record at pages 95 – 101 to the Petition.

14. The HIV report of the said female minor dated 26th November, 2022 certifies the case as Non Reactive. The said report is placed on record at page 103 to the Petition.

15. The Post Card Size Photograph of the minor is placed on record at page 104 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Sagarika’ be renamed as “Vaani Khatri”.

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents it states that they are willing to be appointed and declared as the adoptive parents of the said female

minor Sagarika born on 4th October, 2022. This declaration is placed on record at pages 42-43 to the Petition.

18. The Pre-adoption foster care Affidavit dated 13th April, 2023 is placed on record at pages 44-45 to the Petition.

19. The Undertaking dated 15th March, 2023 given by the Specialized Adoption Agency "Miracle Adoption Agency", Faridabad, Haryana for furnishing post adoption follow-up reports is placed on record at pages 110 to the Petition.

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

21. 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.

22. 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.

23. 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 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.

¹ W.P.(L) No.32065 of 2022

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. Thus, there is no impediment in granting the relief sought for in the Petition.

25. 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 in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minor Vaani Khatri.

(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 Vaani Khatri born on 04/10/2022 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 'SAGARIKA' to "Vaani Khatri".

26. 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.

27. The Judge's Order is separately signed.

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

29. 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.]