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

INDIAN ADOPTION PETITION NO.28 OF 2023**

St. Catherine's Home, Mumbai

...Petitioner

And

**Mr. Shekhar Vijay Nichal and Mrs. Shekhar
Nichal**

**...Prospective
Adoptive Parents**

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

Mr. O. Hareendran, Scrutiny Officer, ICWC present.

Mr. Dilip S. Gurav, Chamber Registrar is present.

**CORAM : R.I. CHAGLA J.
DATE : 7TH SEPTEMBER, 2023.**

ORDER :

1. By this Indian Adoption Petition, the Petitioner and
Prospective Adoptive Parents have sought adoption of the male minor
Poojit ("the said male minor) who was born on 30/07/2022. The
biological mother surrendered the said male minor child before the
Child Welfare Committee (CWC), Mumbai Suburban- II on
24/08/2022 and the child's custody was given to the Petitioner
institution on the same day as per the order of the said CWC dated

24/08/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The custody order of the CWC has been placed on record at page 22 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 declared the said male minor Poojit “Legally Free for Adoption” on 14/12/2022. The Free for adoption order has been placed on record at page 21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Ahmadnagar, Maharashtra, aged about 47 years and 42 years respectively. They have been married for the past 20 years (04/07/2003) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents has been placed on record at page 32 to the Petition.

5. The decision of Adoption Committee dated 20/01/2023 has been placed on record at pages 19-20 to the Petition. The Committee has decided that the Prospective Adoptive Parents are

suitable to adopt the said male minor child Poojit born on 30/07/2022.

6. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor Poojit has been placed on record at pages 89-93 to the Petition.

7. The Medical Report of the Prospective Adoptive Parents dated 19/05/2023 is on record and it states that they do not suffer from any chronic, contagious or fatal disease and fit to adopt. Their HIV and Hepatitis B test reports certify the case as Negative. The Reports have been placed on record at pages 26-31 to the Petition.

8. The Prospective Adoptive Father is self-employed (Running a Ration Shop) and his annual income is of Rs. 3, 85,000/-. The Income Certificate from the Tahasil Office, Sangamner and Income Affidavit from the Prospective Adoptive Father has been placed on record at pages 40-42 to the Petition.

9. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence, copies of Pan Cards and other supportive financial documents have been placed on record at pages 33-35 and 43-44 to the Petition.

11. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at pages 45-52 to the Petition.

12. The Part II: Assessment reports dated 14/01/2019 and 10/01/2023 of the social worker of Specialized Adoption Agency, “Shishu Gruha”, Dhule have found the Prospective Adoptive Parents suitable for adopting a child. The Report has been placed on record page 53-63 to the Petition.

13. The Child Security Undertaking dated 18/01/2023 given by the Prospective Adoptive Father’s brother and sister-in-law residing at Sangamner, Dist. Ahmednagar to look after the said male minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at pages 73-74 to the Petition.

14. The Medical Examination Report of the said male

minor Poojit dated 04/01/2023 states that he has achieved most of the milestones expected for his age. The Prospective Adoptive Parents have countersigned the said Medical Examination Report. The said Report has been placed on record at pages 78-85 to the Petition.

15. As regards the change of name, the adoptive parents desire that the minor 'Poojit ' be renamed as "Shivank Shekhar Nichal"

16. The HIV test report of the minor dated 28/06/2023 certifies the case as Negative". The said report has been placed on record at page 87 to the Petition.

17. The Post Card Size Photograph of the minor is at page No.88.

18. The Declaration of Consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor Poojit born on 30/07/2022. The said declaration has been placed on record at page 36-37 to the Petition.

19. The Pre-adoption foster care undertaking dated 18/01/2023 has been placed on record at pages 38-39 to the Petition.

20. The Undertaking dated 19/01/2023 from the authorities of “Shishu Gruha”, Dhule for furnishing post adoption follow-up reports has been placed on record at page 94 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 05-05-2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered representation / report of the Indian Council of Social Welfare dated 2nd September, 2023 which is taken on record and marked ‘X’ for identification.

23. 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 male minor to be adopted by the Prospective

Adoptive Parents.

24. 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.

9. Additionally, the safer and more prudent course of action would be to allow all matters to be placed before

¹ W.P(L) No.32065 of 2022

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

26. 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 Shivank Shekhar Nichal in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor.

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minor Shivank Shekhar Nichal from the jurisdiction of this Hon'ble Court and to take the said minor out of the jurisdiction of this Hon'ble 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 Shivank Shekhar Nichal, born on 30/07/2022 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'POOJIT' to "Shivank Shekhar Nichal".

27. 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. The Adoptive Parents agree to handover the investment receipts to the adopted child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

28. The Judge's Order is separately signed.

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

30. 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.]