

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INDIAN ADOPTION PETITION NO.35 OF 2022
WITH
JUDGE'S ORDER NO.70 OF 2022
IN
INDIAN ADOPTION PETITION NO.35 OF 2022

St. Catherine's Home ... Petitioner
and
1. Pawan Nandkishor Haida
2. Priyanka Pawan Heda ... Prospective Adoptive
Parents

Mr. Rakesh K. L. Kapoor for Petitioner.
Ms. Vandana M. Chincholkar, Scrutiny Officer, Indian Council of Social Welfare.
Ms. Shonali Dighe, Commissioner for taking Accounts.

CORAM : MANISH PITALE, J.
DATE : FEBRUARY 23, 2023

P.C. :

. By this petition filed under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, the petitioner, a registered Social Welfare Organization duly recognized by the Government as a specialized adoption agency under Section 65 of the said Act, has approached this Court along with the prospective adoptive parents for adoption of the minor girl child 'Shalaka', now known as 'Janhvi'. The minor child is a Court committed child, born on 13.10.2021 and is in the care and custody of the petitioner.

2. Heard Mr. Kapoor, learned counsel for the petitioner in the presence of Ms. Vandana Chincholkar, Scrutiny Officer of the Indian Council of Social Welfare (ICSW). Ms. Chincholkar has tendered report of the Council dated 25.08.2022, supporting the prayers made in the present petition. The same is taken on record and marked 'X'.

3. The prospective adoptive parents are residents of Surat in Gujarat and they are registered under the Child Adoption Resources and Information and Guidance System. They were directed by the Central Adoption Resource Authority (CARA) to approach the petitioner for adoption of the minor child. The petitioner states that the prospective adoptive parents are fully aware about the needs of the minor child and that they intend to take care of the minor child. It is further stated that the prospective adoptive parents were married on 28.02.2008 and they do not have any biological child. They have both jointly consented and executed appropriate documents showing their willingness and readiness to take care of the minor child as their own child as required under Section 58(3) of the said Act. A self assessment report of the prospective adoptive parents and also the home visit report of the specialized adoption agency at Surat are placed on record to assure this Court about the fitness of the parents to undertake adoption of the minor child. Copies of the relevant documents pertaining to the prospective adoptive parents, including their marriage proof, medical certificates etc. are placed on record.

4. It is further stated that the prospective adoptive father is a self-employed person in the business of textiles at Surat and as per the documents placed on record, including income tax returns, his gross income for the assessment year 2021-22 is Rs.4,69,540/-. The appropriate affidavits of the authorized person, representing the petitioner, are also placed on record.

5. The report submitted by the Indian Council of Social Welfare supports the assertions made in the petition. The prospective adoptive parents undertake to invest a sum of Rs.1 Lakh in LIC's Single Premium Endowment Policy, in the name of the minor child. They will not withdraw the said invested amount till the minor child attains the age of

majority.

6. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and anr. Vs. Union of India and ors.* in **Writ Petition No.32065/2022** on **10.01.2023**, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication of such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of the 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.”

7. Having heard learned counsel for the petitioner and having perused the statements made in the adoption petition supported by the documents on record, this Court is satisfied that the present petition can be allowed. Accordingly, the petition is allowed in terms of prayer clauses (a) to (d) which read as follows:

“(a) That the Prospective Adoptive Parents be given the said child Janhvi Pawan Heda 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 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 Janhvi Pawan Heda, born on 13/10/2021 and stating thereon that the prospective adoptive parents are the parents of the said minor.

(d) That the prospective adoptive parents be allowed to change the name of the minor from Shalaka to ‘Janhvi Pawan Heda’, born on 13/10/2021.”

8. The Judge’s order is separately signed.

(MANISH PITALE, J.)

Minal Parab