

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO. 42 OF 2023
WITH
JUDGE'S ORDER NO. 73 of 2023

Worldchildren Welfare Trust Bal Anand, ...Petitioner
Mumbai

And

Mr. Rohit Rajiv Sawale and ...Prospective Parents
Pradnya Avinash Borse

Mr. Sameer K. Sawant, for the Petitioner.

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

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

CORAM : R.I. CHAGLA J

DATE : 26 October 2023

ORDER :

1. By this Indian Adoption Petition which has been jointly filed by the Petitioner and the Prospective Adoptive Parents adoption of female minor Prutha (“the said female minor”) born on 20th January 2022 is sought.

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2. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District, Mumbai on 24th January 2022 and the child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 24th January 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**"). The Safe Custody Order of CWC is on record at page No. 22 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District, Mumbai declared the said female minor Prutha "Legally Free for Adoption" on 4th April 2022. The Free for adoption Certificate is on record at Page No. 20-21 to the Petition.

4. The Prospective Adoptive parents are Indian nationals, residing at Pune, aged about 39 and 37 years respectively. They have been married for the past 10 years (14th July 2013) with no biological children.

5. Motivation Letter by the Prospective Adoptive Parents is

on record at page No. 27 to the Petition.

6. The Decision of Adoption Committee dated 12th July 2022 is on record at page No. 19 to the Petition and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor Prutha.

7. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is on record at page Nos. 23-25 to the Petition.

8. The Medical Report of the Prospective Adoptive Parents dated 25th June 2022 states “Fit for adopting and parenting child”. Their HIV I & II and Hepatitis B test reports certifies the case as Non-Reactive. These Reports can be found at page Nos. 35 - 42 to the Petition.

9. The Prospective Adoptive Father is working as a Manager in the Finance Department with Brose India Automotive Systems Pvt. Ltd., Pune since October 2011 and his gross monthly (June-2022) salary is Rs. 1,93,299.60/-. His Employment Certificate, Salary Slip

and Tax Returns are on record at page Nos. 53-57 to the Petition.

10. The Prospective Adoptive Mother is working as a QA Engineer in the Product Development Department with eQ Technologic (India) Pvt. Ltd., Pune since December 2018 and her gross monthly (June-2022) salary is Rs. 1,08,207/-. Her Employment certificate, Salary Slip and Tax Returns are on record at page Nos. 63-67 to the Petition.

11. The Copies of Aadhar Card, PAN Card, Proof of Residence and other supportive financial documents are on record at page Nos. 31-34, 43 and 58-62 to the Petition.

12. The childcare arrangement plan declaration by the Prospective Adoptive Parents is on record at page No.48 to the Petition.

13. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos. 85-92 to the Petition.

14. The Home Study Report part II: Assessment Reports dated 20th August 2019 and 2nd September 2023 of the social worker of “Renuka Mahajan Trust”, Pune are on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a female child between 2 months to 2 years. These Reports have been placed on record at pages 93-97A to the Petition.

15. The child security undertaking dated 1st June 2019 by the Prospective Adoptive Mother’s brother and sister-in-law residing at Ravet, Pune to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page No.78-81 to the Petition.

16. Medical Examination Report of the said female minor dated 2nd June 2022 states “Health Status: Normal. Overall Observation of the child: Prutha is a cheerful child, whose growth and development is appropriate for her age”. The Prospective Adoptive Parents have countersigned the said Medical Examination Report which has been placed on record at pages 99-106 to the Petition.

17. The H.I.V. report of the said female minor dated 1st February 2022 certifies the case as Negative. This report is on record at page No. 106A to the Petition.

18. The post card size photograph of the said female minor is on record at page 26 to the Petition.

19. As regards the change of name, the adoptive parents desire that the said female minor 'Prutha' be renamed as "Tanvi Rohit Sawale".

20. The Joint 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 female minor Prutha born on 20th January 2022. The said Declaration is on record at page No. 44-46 to the Petition.

21. The Pre-adoption foster care undertaking dated 14th July 2022 is on record at page Nos. 49-52 to the Petition.

22. The follow up Report dated 2nd September 2023

by the authorities of “Renuka Mahajan Trust” Pune states that the Prospective Adoptive Parents take all the required and necessary sensitive care of child Prutha and have lots of dreams and plans towards their adoptive child. The couple appears to be managing their role as parents with ease and both demonstrate a strong attachment to the child. The child seems to be very smart, healthy and getting love, affection from her parents. The said Report has been placed on record at 52A-B to the Petition.

23. The undertaking dated 2nd July 2022 given by the specialized adoption agency “Renuka Mahajan Trust”, Pune for furnishing post adoption follow-up reports is on record at page No. 98 to the Petition.

24. 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.

25. Mr. O. Hareendran, Scrutiny Officer has tendered Scrutiny Report/Representation of Indian Council of Social Welfare dated 16th October 2023, which is taken on record and marked “X”

for identification.

26. Having considered the documents placed on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, I am of the view that it would be in the interest of the said female minor, if she is adopted by the Prospective Adoptive Parents.

27. 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 the effect, implementation and purport of the letter dated 30th September, 2022 issued by

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

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.”

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

29. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which read thus:-

- “(a) That this Hon’ble Court may please to appoint the prospective parents as Adoptive Parents of the said minor **PRUTHA @ TANVI** now in the legal custody of the Worldchildren Welfare Trust India, BAL ANAND, MUMBAI.*
- (b) That the Prospective Adoptive Parents be allowed to change the name of the minor from ‘**PRUTHA**’ to “**TANVI ROHIT SAWALE**”.*
- (c) That the Petitioners be granted leave of this Hon’ble Court to remove the said minor PRUTHA outside the jurisdiction of this Hon’ble Court and to take the said minor alongwith them i.e. prospective parents wherever they may reside or their work may required them to;*
- (d) That the concerned Municipal Authority may be directed to issue Birth Certificate within five working days from the date of application of the Petitioner, as per the provision of regulation 35 of the Adoption Regulation of the said minor PRUTHA @ TANVI showing the prospective parents ROHIT RAJIV SAWALE and PRADNYA AVINASH BORSE as the adoptive father and mother respectively.”*

30. The Adoptive Parents have undertaken to invest an amount of Rs. 2,00,000/- (Rupees Two Lakh only) in the name of the said female minor. They have further undertaken not to withdraw

this investment till the Adopted Child attains majority. They agree to handover investment receipts to the Adopted Child, upon becoming major. This undertaking is also part of the Judge's Order, which as aforementioned is separately signed.

31. The Judge's Order is accepted and signed separately.

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

[R.I. CHAGLA J.]