

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. 37 OF 2023
WITH
JUDGE'S ORDER NO. 67 OF 2023

Vatsalya Trust

...Petitioner

Versus

Mr. Manoj Vasantryao Raut & Anr.

...Prospective
Adoptive Parents

Ms Sangeeta Nagpal, 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 : 12 October 2023

ORDER :

SHARAYU
PANDURANG
KHOT

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1. By this Indian Adoption Petition, jointly filed by the
Petitioner and Prospective Adoptive Parents, adoption of the
Proposed male minor Pritesh (“**the said male minor**”) is sought.

2. The said male minor was born on 22nd September 2022. The biological mother surrendered the said male minor before the Child Welfare Committee (I), Mumbai Suburban District on 26th September 2022 and the said male minor's custody was given to the Petitioner institution Vatsalya Trust, Mumbai on the same day. On 30th September 2022 through its order, the CWC, Mumbai Suburban District recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**"). The order of Placement is on record at page No. 94 to the Petition.

3. After making due inquiry under section 38 of the said Act, the Child Welfare Committee, Mankhurd, Dist. Mumbai declared the said male minor "Legally Free for Adoption" on 10th January 2023. The Free for Adoption Certificate has been placed on record at page Nos. 91-92 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Amravati, Maharashtra aged about 51 years and 43 years respectively, having been married for the past 18 years (3rd January 2005) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on record at Page No. 72 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos. 101-106 to the Petition.

7. The Minutes of the Adoption Committee meeting held on 12th April 2023 has been placed on record at page Nos. 88 to the Petition. The committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.

8. The Medical Report of the Prospective Adoptive Parents dated 8th April 2023 states that the Prospective Adoptive Parents are physically and mentally fit. The Adoptive Mother has a known case of Hyperthyroidism and is under medication. Their HIV (I & II) and HBsAg test reports certifies their case as Non Reactive. The said Reports are on record at page Nos. 31-35 to the Petition.

9. The Prospective Adoptive Father is self-employed (building material supplier) for the last 23 years. His total income for

the Assessment Year 2022-23 is Rs. 4,76,350/-. The GST Registration Certificate and Income Tax Returns are record at Page Nos. 38-43. to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The copies of PAN card and property documents are on record at page Nos. 24, 26, & 44-45a to the Petition.

11. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos. Pg. 46-53 & 59-66 to the Petition.

12. The Part II: Assessment Reports of the Social Worker of “Holy Cross Home For Babies”, Amravati (Home visits done on 3rd October 2019 and 11th September 2022) are on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos. 54-58 and 67-71 to the Petition.

13. The child security undertaking dated 19th November 2022 given by the Prospective Adoptive Father’s brother and sister-in-law residing at Amravati, Maharashtra to look after the

the said male minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page Nos. 73-74 to the Petition.

14. The Pre-adoption foster care undertaking dated 18th April 2023 has been placed on record at page Nos. 95-96 to the Petition.

15. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. The said declaration has been placed on record at page No. 97 to the Petition.

16. The Medical Examination of the said male minor dated 6th March 2023 states, "Health status of the child: Normal. Overall Observation of the child: Up to now his overall development is normal." The Proposed Adopters have countersigned the said report, which is on record at page Nos. 78-84 to the Petition.

17. The latest HIV report of the said male minor dated

31st January 2023 certifies the case as Negative. This report is on page No. 86 to the Petition. The post card size photograph of the said male minor is on record at page No.99 to the Petition.

18. As regards the change of name, the Proposed Adopters desire that the said male minor 'Pritesh' be renamed as "Devashish Manoj Raut".

19. The undertaking dated 18th April 2023 given by the authorities of "Holy Cross Home For Babies", Amravati, Maharashtra for furnishing post adoption follow-up reports is on record at page No. 100 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 up to 5th July 2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 7th September 2023, which is taken on record and marked "X" for identification.

22. 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 male minor, if he is adopted by the Prospective Adoptive Parents.

23. 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 Respondent No.2;

(e) Pending the final hearing and disposal of the

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

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.”*

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

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

*“(a) For adoption of the Proposed male minor Baba
PRITESH @ DEVASHISH MANOJ RAUT born on 22nd*

September 2022 by the Proposed Adopters under Juvenile Justice Act.

- (b) For declaring the Prospective Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor Baba **PRITESH @ DEVASHISH MANOJ RAUT**.*
- (c) That the Prospective Adopters be granted permission to change the name of minor **PRITESH** to **DEVASHISH MANOJ RAUT**.*
- (d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor **DEVASHISH MANOJ RAUT**, born on **22nd September 2022** and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor.*
- (e) 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."*

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

27. There is an undertaking in the Judge's Order that

Adoptive Parents will create a fixed deposits for an amount of Rs. 1,00,000/- (Rupees One Lakh only) in the name of the Adopted Child. They have undertaken not to withdraw the said amount until the Adopted child attains majority. They have agreed to handover investment receipts to the Adopted child on his becoming major. This undertaking is accepted as an undertaking to this Court.

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

[R.I. CHAGLA J.]