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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.27 OF 2023**

Bal Asha Trust, Mumbai

...Petitioner

And

Mr. Miryala Suresh Naidu and Swapnaja Raut

**...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 minors (siblings) Roshan Yuvraj Gaikwad, born on or about 4th January, 2015 and Ajay Yuvraj Gaikwad, born on or about 4th January, 2017 ("the said male minors"). The said male minors were

found abandoned by the CSMT Railway Police, Mumbai on 30th October, 2021. Thereafter, the said minors were produced before the Child Welfare Committee (CWC), Mumbai-City-I on 1st November, 2021 and their custody was given to Asha Sadan, Dongri, Mumbai on the same day as per the order of CWC dated 1st November, 2021 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. On 18th January, 2022 the CWC had transferred the minors to the Petitioner institution for further rehabilitation. The Safe Custody Order and Transfer order of the CWC has been placed on record at pages 27-28B to the Petition.

2. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015, the CWC, Mumbai City I declared the said male minors Roshan Yuvraj Gaikwad & Ajay Yuvraj Gaikwad “Legally Free for Adoption” on 23rd June, 2022. The Free for adoption Certificate has been placed on record at pages 25-26 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Belgaum, Karnataka, aged about 49 and 46 years respectively. They have been married for the past 9 years (6th

September, 2014) with no biological children.

4. The Motivation letter from the Prospective Adoptive Parents have been placed on record at page 48 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minors has been placed on record at pages 134-138 to the Petition.

6. The decision of the Adoption Committee dated 5th December, 2022 has been placed on record at pages 24-24A to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minors Roshan Yuvraj Gaikwad and Ajay Yuvraj Gaikwad.

7. The Health Reports dated 2nd November, 2022 of the Prospective Adoptive Parents is on record and it states, "They are medically fit". Their HIV and HBsAg test reports certify the case as Negative. These reports have been placed on record at pages 29-36 to the Petition.

8. The Prospective Adoptive Father is working as a Vice-President (Sales) with Parum Info Computer Consultancy, Dubai, UAE since 3rd October, 2016 and his monthly salary is AED 19,000 (Rs. 4,18,000/-). His Employment and Income Certificate has been placed on record at Page 59 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The proof of residence, Aadhar and Pan Card copies and supportive financial documents have been placed on record at pages 49-53 and 60-71 to the Petition.

10. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at pages 72-83 to the Petition.

11. The part II: Assessment report dated 31st August, 2021 by the Social Worker of “Swami Vivekanand Seva Pratisthan”, Belagavi, Karnataka has been placed on record and the report has found the Prospective Adoptive Parents suitable for adopting the children. The said report has been placed on record at pages 84-91 to the Petition.

12. The child security undertaking dated 13th May, 2023 of the Prospective Adoptive Father's sister and brother-in-law residing at Dubai to look after the said male minors in case of any mishap to the Prospective Adoptive Parents has been placed on record at pages 101-102 to the Petition.

13. The Medical Examination Report dated 25th June, 2022 of the child Roshan has been placed on record at pages 105 - 111 and it states, "Health Status of the child: Normal. Overall Observation of the child: He has not suffered from any major illness needing hospitalization and is currently disease free. He is developmentally normal for his age". The Proposed Adopters have countersigned the said report.

14. The Report of Psychological Testing of the minor Roshan dated 25th November, 2022 states that he has below average intellectual functioning and average social functioning. The Report of Language Speech and Hearing states that he has no significant delay in his language acquisition. The Proposed Adopters have countersigned these reports. The said Report has been placed on record at pages 112-115 to the Petition.

15. The Medical Examination Report dated 25th June, 2022 of the child Ajay states, “Health Status of the child: Normal. Overall Observation of the child: He has not suffered from any major illness needing hospitalization and is currently disease free. He is developmentally normal for his age”. The Proposed Adopters have countersigned the said report. The said Report has been placed on record on pages 118-124 to the Petition.

16. The Report of Psychological Testing of the minor Ajay dated 25th November, 2022 states that he has average intellectual functioning and social functioning. The Report of Language Speech and Hearing is also on record and states that he has no significant delay in his language acquisition. The Proposed Adopters have countersigned these reports which have been placed on record at pages 125-128 to the Petition.

17. The HIV Report of the said male minors dated 25th February, 2022 certifies the case as Non Reactive. The said reports have been placed on record at pages 130-131 to the Petition. The Post Card Size Photographs of the children have been placed on record at pages 132-133 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that Roshan Yuvraj Gaikwad be renamed as “Miryala Shreehaan Naidu” and Ajay Yuvraj Gaikwad be renamed as “Miryala Shiv Naidu” respectively.

19. The Declaration of Consent and Undertakings by the Prospective Adoptive Parents have been placed on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the said male minors Roshan Yuvraj Gaikwad born on 4th January, 2015 and Ajay Yuvraj Gaikwad, born on 4th January, 2017. These declarations have been placed on record at pages 54-55 to the Petition.

20. The Pre-adoption Foster Care Affidavit dated 21st December, 2022 has been placed on record at pages 56-58 to the Petition.

21. The Undertaking dated 26th June, 2023 given by the Specialized Adoption Agency “Swami Vivekanand Seva Pratisthan”, Belagavi, Karnataka for furnishing post adoption follow-up reports has been placed on record at page 139 to the Petition.

22. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period upto 05/05/2025.

23. 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.

24. 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 minors to be adopted by the Prospective Adoptive Parents.

25. 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 :

¹ W.P.(L) No.32065 of 2022

“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 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.”

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

27 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 children in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minors Miryala Shreehaan Naidu & Miryala Shiv Naidu.

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minors from the jurisdiction of this Hon'ble Court and to take the said minors 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 minors Miryala Shreehaan Naidu, born on 04/01/2015 and Miryala Shiv Naidu, born on 04/01/2017 respectively and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minors.

(d) That the Prospective Adoptive Parents be allowed to Change the name of the minors from 'Roshan Yuvraj Gaikwad' to "Miryala Shreehaan Naidu" and 'Ajay Yuvraj Gaikwad' to "Miryala Shiv Naidu".

28. 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

each adopted children till the adopted children attains the age of majority. The Adoptive Parents agree to handover the investment receipts to the adopted children on their becoming major. This undertaking is accepted as an undertaking to this Court.

29. The Judge's Order is separately signed.

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

31. 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.]