

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INDIAN ADOPTION PETITION NO.45 OF 2022
WITH
JUDGE'S ORDER NO.95 OF 2022
IN
INDIAN ADOPTION PETITION NO.45 OF 2022

Indian Association for Promotion of Adoption
and Child Welfare (IAPA) ... Petitioner
and

1. Meman Muhammad Jahid Muhammad Iqbal
2. Sabana Banu Muhammad Jahid Meman ... Prospective Adoptive
Parents

Mr. Pushkar M. Nagpurkar 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 of Maharashtra 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 male child 'Arjeet', now known as 'Meman Muhammad Ali Muhammad Jahid'. The minor child was born on 14.02.2022 and relinquished by the biological mother on 18.02.2022 before the Child Welfare Committee (CWC), Mumbai City and since then, the child is in the custody of the petitioner. On 29.04.2022, the CWC declared the minor child legally free for adoption under Section 38 of the said Act.

2. Heard Mr. Nagpurkar, 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 06.02.2023, 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 to approach the petitioner institution for adoption of the minor child. The adoption committee of the petitioner institution has found the prospective adoptive parents to be eligible and suitable for the adoption.

4. The prospective adoptive parents were married on 07.05.2006 and they do not have any biological child. They have consented to the adoption and given appropriate undertakings, which are annexed to the petition.

5. Both the prospective adoptive parents are self employed. The prospective adoptive father is in the business of tiles and his total income for the assessment year 2021-22 is stated to be Rs.4,94,370/-. The prospective adoptive mother is into part time business of selling clothes and her income for the assessment year 2021-22 is stated to be Rs.4,91,170/-. Copies of the income tax returns and such other documents are placed on record to support the said statements.

6. A report of the Home Study (Assessment) of the prospective adoptive parents carried out by a social worker of the Specialized Adoption Agency from Surat is placed on record, which supports the contentions made in the present petition.

7. 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.

8. 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.”

9. 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) This Hon’ble Court be pleased to declare the proposed adopters as adoptive parents of Arjeet (male minor) and shall have all parental legal rights, privileges and responsibilities over the said minor who is now in the care and custody of Indian Association for Promotion of Adoption & Child Welfare MUMBAI.

(b) This Hon’ble Court be pleased to grant leave to remove the said minor outside the jurisdiction of this Hon’ble Court whenever required.

(c) This Hon’ble Court be please to further order the Municipal Corporation of Greater Mumbai to issue individual birth certificate in the new name as Meman Muhammad Ali Muhammad Jahid of the said minor stating the proposed adopters as his parents and the proposed adopters may be granted leave to apply to the Passport office or any other authority for the same.

(d) This Hon’ble Court may grant leave to file further affidavit if required.”

10. The Judge’s order is separately signed.

(MANISH PITALE, J.)

Minal Parab