

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. 43 OF 2023
WITH
JUDGE'S ORDER NO. 74 of 2023

Vatsalya Trust

...Petitioner

And

Mr. Suwendu Nandi
Mrs. Monideepa Paul

...Prospective
Adoptive Parents

Mrs. 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 : 26 October 2023

ORDER :

1. This Indian Adoption Petition which has been jointly filed by the Petitioner and the Prospective Adoptive Parents is for adoption of female minor Mishka (“**the said female minor**”), who was born on 13th November 2021.

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2. The biological mother of the said female minor child surrendered her before the Child Welfare Committee (CWC), Mumbai Suburban District on 20th October 2022 and her custody was given to the Petitioner institution on the same day as per the order of the CWC dated 20th October 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The admission order of the CWC is on record at page No. 92 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, Dist. Mumbai declared the said female minor Mishka “Legally Free for Adoption” on 24th January 2023. The Free for Adoption Certificate is on record at page Nos. 89-90 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Kolkata both aged about 41 years. They have been married for the past 8 years (20th May 2015) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on

record at Page No. 71 to the Petition.

6. 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. 99-104 to the Petition.

7. The Minutes of Adoption Committee meeting held on 19th April 2023 is on record at page No.86 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child.

8. The Medical Report of the Prospective Adoptive Parents dated 8th April 2023 states that they are physically and mentally fit. Their HIV- I & II and HBsAg test reports certifying their case as Non Reactive has been placed on record at page Nos. 34-40 to the Petition.

9. The Prospective Adoptive father is working as a Manager-IT with Futures First Info Services Pvt. Ltd., Kolkata since 1st June 2009 and his monthly (February-2023) net salary is Rs. 81,900/-. His Pay slip and Income Tax Returns are on record at Page

Nos. 42 and 44-46 to the Petition.

10. The Prospective Adoptive Mother is working as an Assistant Manager Accounts & Administration with Asia Minerals India Pvt. Ltd., Kolkata since 15th October 2013 and her monthly (February-2023) net salary is Rs. 39,673/-. Her Pay slip and Income Tax Returns are on record at Page Nos. 43 and 47-52 to the Petition.

11. The proof of Residence, copies of PAN card and supportive financial documents are on record at page Nos. 41, 24, 26 and 53-56 to the Petition.

12. The childcare arrangement plan undertaken by the Prospective Adoptive Mother's mother is on record at page Nos. 72 to the Petition.

13. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos. Pg. 57-63 to the Petition.

14. The Home Study Part II: Assessment Report dated

5th November 2022 by the authorities of “Mukti Rehabilitation Centre”, Dist. 24 Parganas (North), West Bengal states that the Prospective Adoptive Parents are suitable for adopting a child. The said Home Study Reports are on record at page Nos. 64-69 to the Petition.

15. The child security undertaking dated 30th June 2023 given by the Prospective Adoptive Father’s cousin sister and brother-in-law residing at Hooghly, West Bengal to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 73-74 to the Petition.

16. The Pre-adoption foster care undertaking dated 4th April 2023 is on record at page Nos. 93-94 to the Petition.

17. 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 female minor Mishka. The said Declaration has been placed on record at page No. 95 to the Petition.

18. The Medical Examination of the said female minor dated 6th March 2023 states, “Health status of the child: Normal child. Overall Observation of the child: Her overall development is normal.” The Proposed Adopters have countersigned the said report, which has been placed on record at page Nos. 78-84 to the Petition.

19. The HIV Report of the said female minor dated 20th December 2022 certifies the case as Negative. This report is on record at page No. 85 to the Petition.

20. The post card size photograph of the said female minor is on record at page No.96 to the Petition.

21. As regards the change of name, the Proposed Adopters desire that the said female minor ‘**Mishka**’ be renamed as “**Saranya Nandi**”.

22. The undertaking dated 6th April 2023 given by the authorities of “Mukti Rehabilitation Centre”, Dist. 24 Parganas (North), West Bengal for furnishing post adoption follow-up reports has been placed on record at page No. 98 to the Petition.

23. 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.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Scrutiny Report/Representation of Indian Council of Social Welfare dated 6th October 2023, which is taken on record and marked "X" for identification.

25. 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 that she is adopted by the Prospective Adoptive Parents.

26. 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

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

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 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.”

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

28. 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 minor Baby **SARANYA NANDI** born on **13th November 2021** by Proposed Adopters under Juvenile Justice Act.*

*(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and Responsibilities over the said minor Baby **SARANYA NANDI**.*

*(c) That the Proposed Adopters be granted permission to change the Name of minor **MISHKA** to **SARANYA NANDI**.*

*(d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor **SARANYA NANDI**, born on **13th November 2021** 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."

29. The Adoptive Parents have undertaken to invest an amount of Rs. 1,00,000/- (Rupees One Lakh only) in the name of the Adopted Child. 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 her becoming a major. This undertaking is accepted as undertaking to this Court.

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

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

[R.I. CHAGLA J.]