

jsn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO.39 OF 2023
WITH
JUDGE'S ORDER NO.69 OF 2023

Bal Asha Trust

...Petitioner

Mr. Sandeep Sudhakar Joshi
Mrs. Aditi Sandeep Joshi

...Prospective
Adoptive Parents

Mr. Rakesh K.L. Kapoor, for the Petitioner.

Mr. O.Hareendran, Scrutiny Officer is present.

Mr. Dilip Gurav, Chamber Registrar is present.

CORAM : R.I. CHAGLA J.
DATE : 19TH OCTOBER, 2023.

ORDER :

1. By this Indian Adoption Petition filed jointly by the Petitioner and Prospective Adoptive Parents, the adoption of the female minor Lavanaya (the said female minor) has been sought.

2. The said female minor was born on 30/12/2022. The biological parents of the said female minor surrendered her before the Child Welfare Committee (CWC), Mumbai City-II on 09/01/2023 and she was admitted to the Petitioner Institution on the same day as

per the order of the said CWC, Mumbai City-II, dated 09/01/2023 for further care and rehabilitation under the provisions of Juvenile Justice Act,2015. The Admission Order of the CWC is on record at page 26 to the Petition.

3. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City II declared the said female minor **“Legally Free for Adoption” on 13/03/2023**. The Free for adoption Certificate is placed on record at pages 24-25 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Hyderabad, aged about 36 and 31 years respectively. They have been married for the past 13 years (01/06/2010) with no biological children.

5. Motivation letter from the Prospective Adoptive Parents is placed on record at page 33 to the Petition.

6. The Affidavit of the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is placed on record at pages 89-93 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 09/06/2023 is placed on record at pages 19-23 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Health reports dated 18/05/2023 of the Prospective Adoptive Parents states that, "They are not suffering with any chronic, contagious or fatal disease and are fit to adopt a child". Their HIV and HBsAg test reports certify the case as Non Reactive. The reports are placed on record at pages 30-32 to the Petition.

9. The Prospective Adoptive Father is self-employed (Poojari) since 2007. His income for the Assessment Year 2022-23 is Rs. 4,25,000/-. The Chartered Accountants Certificate and Income Tax returns have placed on record at pages 40-46 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of residence, Copies of Aadhar and Pan Cards and supportive financial documents have placed on record at pages 34-36 & 47-55 to the Petition.

11. The home study report Part I: Self Assessment by

the Prospective Adoptive Parents is placed on record at pages 56-64 to the Petition.

12. The home study part II: Assessment report dated 12/06/2023 by the authorities of “Dist. Welfare Officer, Women, Children, Disabled & Senior Citizens Department, Medchal, Telangana” is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said reports have been placed on record at pages 65-70 to the Petition.

13. The child security undertaking dated 22/06/2023 of the Prospective Adoptive Father’s brother and sister-in-law residing at Pune to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at pages 76-77 to the Petition.

14. The Medical Examination Report dated 27/03/2023 of the said female minor states, “Overall Observation of the child: Lavanaya is developmentally normal and has grown well in the institution”. The Proposed Adopters have countersigned the said report which is placed on record at pages 80-85 to the Petition.

15. The HIV report of the proposed minor dated 18/03/2023 certifies the case as Non Reactive. The said report is placed on record at page 87 to the Petition. The Post Card Size Photograph of the said female minor is placed on record at page 88 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor “Lavanaya” be renamed as “Spruha Sandeep Joshi”.

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor. This declaration is placed on record at page 37 to the Petition.

18. The Pre-adoption foster care Affidavit dated 20/06/2023 is placed on record at pages 38-39 to the Petition.

19. The Undertaking dated 21/06/2023 given by the authorities of “Women Development and Child Welfare Department” Government of Telangana, Hyderabad for furnishing post adoption

follow-up reports is placed on record at page 94 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 05/05/2025.

21. O. Hareendran, the Scrutiny Officer has tendered his report / representation of Indian Council for Social Welfare dated 1st October, 2023 which is taken on record and marked 'X' for identification.

22. Having considered the material on record as well as the report of the Scrutiny Officer marked 'X', I am of the view that it is in the interest of the said female minor to be adopted by the Prospective Adoptive Parents.

23. It is relevant to note here that in the case of ***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.”

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

25. 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 child in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minor Spruha Sandeep Joshi.

(b) 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.

(c) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Spruha Sandeep Joshi born on 30/12/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to Change the name of the minor from 'Lavanaya' to "Spruha Sandeep Joshi".

26. There is an undertaking of the Adoptive Parents in the Judge's Order to invest a sum of Rs.1 lakh in the name of the adopted child till the adopted child attains the age of majority. The Adoptive Parents agree to handover the investment receipts to the adopted child on her becoming a major. This undertaking is

accepted as an undertaking to this Court.

27. The Judge's Order is separately signed.
28. The Indian Adoption Petition is accordingly disposed of.
There shall be no order as to costs.
29. 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.]