

Manoj Wakle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO.52 OF 2023
WITH
JUDGE'S ORDER NO. 87 OF 2023
IN
INDIAN ADOPTION PETITION NO.52 OF 2023

Vatsalya Trust

...Petitioner/
Applicant

And

Mr. Jitesh Kamal Rajpal and
Mrs. Avantika Jitesh Rajpal

...Prospective
Adoptive Parents

Mrs. Sangeeta Nagpal, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

Mr. Djilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 30TH NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of female
minor Kanchan (“the said female minor”) born on 13th October, 2022

is sought.

2. The biological mother of the said female minor surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District on 21/10/2022 and the child's custody was given to the Petitioner institution on the same day. On 25/10/2022 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 Admission Order of CWC is on record at Page No. 103 to the Petition.

3. After making due inquiry under Section 38 of said Act, the CWC, Mankhurd, Dist. Mumbai declared the said female minor Kanchan "Legally Free for Adoption" on 29/12/2022. The Free for adoption Certificate is on record at Page Nos. 100-101 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals currently residing at Pune, aged about 39 years and 38 years respectively, having been married for the past 10 years (04/02/2013) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on record at Page No. 81 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. 111-116 to the Petition.

7. The Minutes of the Adoption Committee meeting held on 12/04/2023 is on record at Page No. 97 to the Petition and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Medical Report of the Prospective Adoptive Parents dated 10/04/2023 states that they do not have any physical or mental condition which would impair their ability to care for an Adoptive Child. Their HIV (I & II) and HBsAg test reports certifies the case as Non Reactive. The said Medical Report is on record at Page Nos. 30-36 to the Petition.

9. The Prospective Adoptive father is working as an IT Security Manager with Woters Kluwer (India) Private Limited, Pune since March 2023 and his monthly (July-2023) gross salary is Rs. 2,97,667/-. His Employment Certificate, Pay Slip and Income Tax Updated Returns are on record at Page Nos. 37-38 & 41-43 to the Petition.

10. The Prospective Adoptive mother is working as a Manager-Operations with American Express India Private Limited, Pune since 02/04/2025 and her monthly (June-2023) gross salary is Rs. 2,01,023.70/-. Her Employment Certificate, Pay slip and Income Tax Returns are on record at Page Nos. 39-40 & 44-46 to the Petition.

11. The copies of PAN card, proof of Residence and supportive financial documents are on record at page Nos. 28a, 29a, 36a-36d & 45-51 to the Petition.

12. The Child care Arrangement Plan undertaking from the parents of the Prospective Adoptive Father is on record at Page No. 81-82 to the Petition.

13. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at Page Nos.65-74 to the Petition.

14. The Home Study Part II : Assessment report dated 04/11/2022 of the Social Worker of “Children of the World”, New Delhi has found the Prospective Adoptive Parents suitable for adopting a child. The said Home study report is on record at Page Nos. 55-58 to the Petition.

15. The Update Home Study Report dated 07/07/2023 by the authorities of “Bharatiya Samaj Seva Kendra” Pune is on record at page Nos. 79-a to 79-b to the Petition and the report has found the house and the environment suitable and conducive for the placement of a child and the couple is also financially fit to take responsibility of the child.

16. The child security undertaking dated 03/07/2023 given by the Prospective Adoptive Mother’s sister and brother-in-law residing at Kandivali, Mumbai to look after the said female minor in case of any misap to the Prospective Adoptive parents is on record at Page Nos. 84-85 to the Petition.

17. The Pre-adoption foster care undertaking dated 11/04/2023 is on record at Page Nos. 104-105 to the Petition.

18. 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. The said Declaration is on record at Page Nos. 106-107 to the Petition.

19. The Medical Examination of the said female minor dated

20/03/2023 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 is on record at Page Nos. 89-95 to the Petition.

20. The HIV report of the said female minor dated 01/02/2023 certifies the case as Negative. This report is on record at Page No. 96 to the Petition. The Post Card Size Photograph of the said female minor is on record at Page No.108 to the Petition.

21. As regards the change of name, the Proposed Adopters desire that the said female minor ‘Kanchan’ be renamed as “Aaranya Jitesh Rajpal”.

22. The undertaking dated 04/09/2023 given by the authorities of “Bharatiya Samaj Seva Kendra”, Pune, Maharashtra for furnishing post adoption follow-up reports is on record at Page No. 110 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 05/07/2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare dated 28th November, 2023 which is taken on record and marked 'X' for identification.

25. Having considered the material on record as well as the Report of the Scrutiny Officer dated 28th November, 2023 which is marked 'X', for identification, I am of the view that it would be in the interest of the said female minor if she is adopted by the Proposed 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 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

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

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 female minor baby Kanchan @ Aaranya Jitesh Rajpal, born on 13th October , 2022 under Juvenile Justice Act by Proposed Adoptive Parents

(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 Aaranya Jitesh Rajpal

(c) That the Proposed Adopters be granted permission to change the name of minor Kanchan to Aaranya Jitesh Rajpal

(d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Aaranya Jitesh Rajpal, born on 13th October , 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.”

29. The Judge's Order is also accepted and signed separately.
30. There is an undertaking of the Adoptive Parents in the Judge's Order to invest the sum of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child till the Adopted Child attains the age of majority. They have agreed to handover the investment receipt to the Adopted Children on her becoming a major. This undertaking is accepted as an undertaking to this Court.
31. The present Indian Adoption Petition is accordingly, disposed of.
32. There shall be no orders as to costs.

[R.I. CHAGLA, J.]