

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

AND

IN ITS GENERAL AND INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO. 61 OF 2023

WITH

JUDGES ORDER NO. 99 OF 2023

IN

INDIAN ADOPTION PETITION NO. 61 OF 2023

Vatsalya Trust

...

Petitioner

V/s.

Shilpa Umakant Gad (Pro A Do ...
Parent) Pushpa Indira Shilpa Gad
(Minor)

Prospective
Adoptive Parents

VARSHA
DEEPAK
GAIKWAD

Digitally signed by
VARSHA DEEPAK
GAIKWAD
Date: 2024.01.02
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Ms. Sangeeta Nagpal, Advocate for the Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.
(IN CHAMBER).

DATE : 21ST DECEMBER, 2023.

PC:

1. By this Indian Adoption Petition, the Petitioners and Proposed Adoptive Parent have sought for adoption of the female minor Pushpa (“**the said female minor**”). The said female minor Pushpa was born on 6th November 2022.

2. The biological mother surrendered the said female minor child before the Child Welfare Committee(CWC), Mumbai Suburban District on 30th November, 2023 and her safe custody was given to the Petitioner Institution on the same day as per the order of the CWC, Mumbai Suburban District dated 30th November, 2023 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. 103, to the Petition.

3. After making due inquiry under section 38 of the said Act, the CWC, Mumbai Suburban District declared the said female minor Pushpa “Legally Free for Adoption” on 7th February 2023. The Free for Adoption Certificate is on record at Page Nos. 100-101, to the Petition.

4. The Prospective Adoptive Parent is a single mother (Divorcee) of Indian nationality residing at Mira Road, District-Thane aged about 40 years and having been married on 15th May 2011 and thereafter divorced on 23rd July 2013 with no issue from the marriage. The Divorce Decree is on record at Page Nos. 32-34, to the Petition.

5. The Motivation letter from the Prospective Adoptive Parent is on record at Page No. 83, 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. 110-119, to the Petition.

7. The Minutes of the Adoption Committee Meeting held on 12th April 2023 is on record at Page No. 97, to the Petition and the Committee has decided that the Prospective Adoptive Parent is suitable to adopt the said female minor.

8. The Medical Report of the Prospective Adoptive Parent states, “She is not suffering from any major illness. She is physically and clinically fit to do any work or any job”. Her HIV (I & II) and HbsAG test reports certifies the case as Non Reactive. The said report is on record at Page Nos. 29-31, to the Petition.

9. The Prospective Adoptive Parent is a Journalist and working as a Senior Producer with IBN Lokmat News Private Ltd., Mumbai since 10th October 2007 and her monthly (January- 2023) gross salary is Rs. 82,473/-. Her Employment Certificate, pay slip and Income Tax Returns are on record at Page Nos. 36-40, to the Petition.

10. Copies of PAN Card, proof of Residence and supportive financial documents are on record at Page Nos. 24, 35 & 41-42, to the Petition.

11. Child care arrangement plan undertaking dated 26th July 2023 by the Caregiver is on record at Page No. 83, to the Petition.

12. Home study report Part I Self Assessment by the Prospective Adoptive Parent is on record at Page Nos. 43-53 & 62-70, to the Petition.

13. Home Study Reports Part II: Assessment reports dated 5th December 2019 and 7th December 2022 of the Social Worker of

“Snehankur Adoption Center” Ahemdnagar, Maharashtra is on record and the reports have found the Prospective Adoptive Parent suitable for adopting a child. The said Home study reports are at Page Nos. 54-61 & 71-80, to the Petition.

14. The updated home study report dated 23rd January 2023 of the Social Worker of Vatsalya Trust, Mumbai as per Adoption Regulations is on record at Page No. 80-a, to the Petition.

15. The child security undertaking dated 26th July 2023 given by the Prospective Adoptive Parent’s cousin brother residing at Sion, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parent is on record at Page No. 84, to the Petition.

16. The Pre-adoption foster care undertaking dated 26th July 2023 is on record at Page Nos.104 to 105, to the Petition.

17. The Joint declaration of consent & willingness to adopt by the Prospective Adoptive Parent is on record and it states that she is willing to be appointed and declared as the Adoptive parent of the said female minor Pushpa. The said declaration can be found at page No. 106, to the Petition.

18. The Medical Examination Report of the said female minor dated 3rd April 2023, states “Health status of the child: Normal child. Overall Observation of the child: Up to now her overall development is normal.” The Proposed Adopter has countersigned the said report. The said report is on record at Page Nos. 88-94, to the Petition.

19. The HIV Report of the said female minor dated 3rd December 2022 certifies the case as Negative. The said report is at Page No. 95, to the Petition. The Post Card Size Photograph of the said female minor is on record at Page No. 107, to the Petition.

20. As regards the change of name, the Proposed Adopter desire that the said female minor “Pushpa” be renamed as “Indira Shilpa Gad”.

21. The undertaking dated 23rd November 2023 given by the authorities of “Vatsalya Trust” Mumbai for furnishing post adoption follow-up reports is on record at Page No. 109-a, 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 up to 5th July 2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 12th December 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 dated 12th December 2023 marked ‘X’, in my view, it would be in the interest of the said female minor if she is adopted by the Proposed Adoptive Parent.

25. 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 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*

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

continued to be passed until the challenge is finally decided.”

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

27. 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 **PUSHPA @ INDIRA SHILPA GAD** born on 6th November, 2022 by the Proposed Adopter under Juvenile Justice Act.*

*(b) For declaring the Proposed Adopter as Adoptive Parent of the said minor and shall have all parents rights, privileges and responsibilities over the said minor **INDIRA SHILPA GAD**.*

*(c) That the Proposed Adopter be granted permission to change the name of minor **PUSHPA** to **INDIRA SHILPA GAD**.*

*(d) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue **INDIRA SHILPA GAD**, born on 6th November, 2022 and stating thereon that the Prospective Adoptive Parent as the Parent of the said minor.*

(e) That the Prospective Adoptive Parent 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.”

28. The Judge’s Order is also separately signed.

29. In the Judge's Order there is an undertaking of the Adoptive Parent to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child in any Nationalized Bank. The Adoptive Parent also undertake not to withdraw this investment till the Adopted Child attains majority. The Adoptive Parent has 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.

30. The present Indian Adoption Petition is accordingly, disposed of.

(R.I. CHAGLA, J)