

Sharada

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

FOREIGN ADOPTION PETITION NO. 17 OF 2023

WITH

JUDGE'S ORDER NO. 86 OF 2023

IN

FOREIGN ADOPTION PETITION NO. 17 OF 2023

Bal Asha Trust

...Petitioner

And

Jeoffry Alan Grieder and Seema Jeoffry
Grieder

...Prospective
Adoptive Parents

Mr. Rakesh Kappor i.by Mr. Rakesh K. Kapoor, Advocate for the
Petitioner.

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

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 9ND NOVEMBER, 2023.

ORDER :

1. By this Foreign Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of female

minor Chandani Kitendra Thakur (“**the said female minor**”) is sought.

2. The said female minor was born on or about 21/12/2023. She was found abandoned by CSMT Railway Police Station Mumbai on 13/12/2021 and admitted in B. J. Home, Mumbai on the same day. On 14/12/2021, the said female minor child was produced before the Child Welfare Committee (CWC), Mumbai City-II and she was transferred to the Petitioner Institution as per the order dated 14/12/2021 under the provisions of the Juvenile Justice (Care and Protection of Children) Act 2015. The Transfer Order and Admission Order of CWC are on record at page Nos.19-20 to the Petition.

3. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the CWC, Mumbai City II declared the said female minor Chandani Jitendra Thakur “Legally Free for Adoption” as on 23/06/2022. The Free for adoption Certificate is on record at page Nos.17 to 18 to the Petition.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 28/06/2023 to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the

Hague Convention on the Protection of the Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate can be found at Page No.28 to the Petition.

5. The undertaking / affidavit by the Petitioner institution is on record at page Nos.22-27 to the Petition.

6. The Prospective Adoptive Parents are Switzerland Nationals, residing at Gelterkinden, Switzerland aged about 44 and 53 years respectively. They are OCI Card holders (the prospective adoptive mother is Indian Origin-born at Mumbai) and have been married for the past 15 years (06/11/2008) with no biological children.

7. The Proposed Adopters Joint Family Photograph, Copies of Passport and OCI Card are on record at page Nos.29-32 to the Petition.

8. The Medical reports dated 06/02/2023 of the Prospective Adoptive Parents are on record and states that they do not suffer from any chronic, contagious or fatal disease and they are fit to adopt children. Their HIV and HbsAg test report certifies their case as Negative. These reports are at Page Nos.42-53 to the Petition.

9. The Prospective Adoptive Father is working as a Technician-Pack Laboratory with Johnson & Johnson Family of Companies since 01/10/2022 and his annual base salary is CHF 65,000.00. His Income and Employment Certificate is on record at page Nos.54-58 to the Petition.

10. The Prospective Adoptive mother is Project Coordinator with Kelly Services (Suisse) SA, Switzerland and her income for the year 2022 is CHF 116.45. Her Employment and Salary Certificate is on record at page Nos.59-63 to the Petition.

11. The Proposed Adopters proof of residence are on record at page Nos.64-67 to the Petition.

12. The Childcare Arrangements statement from the Proposed Adopters is on record at page No.68-69 to the Petition.

13. The Home study report dated 04/04/2021 by the Social Worker Subine Jackwert, on behalf of the Central authority on Adoption of the Canton of Basel, Switzerland is on record and the report has found the Proposed Adopters suitable for adopting a single child or a pair of siblings between the ages 7 and 11 years from India. The said Home Study Report is at page Nos.70-76 to the Petition.

14. The Psychological Evaluation Report of the Prospective Adoptive Parents dated 14/12/2021 by Marlys Blas Lic. Phil, Psychologist is on record, and the report has found the Proposed Adopters to be in the highest degree suitable as Adoptive Parents. The said report can be found at page No.77 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Adoption Convention is on record at page Nos.78-79 to the Petition.

16. The Child Security undertaking dated 25/08/2023 by the Prospective Adoptive Father's sister residing at Switzerland to look after the said female minor in case of any mishap to the Proposed Adopters is on record at page No.100-101 to the petition.

17. The Medical Examination report of the said female minor dated 31/01/2023 states "Health Status: Normal child. Over all observation of the child: Chandani is a pleasant girl. Who is in good physical and mental health and is developmentally normal. The Proposed Adopters have countersigned this Report, which is at page Nos.106-110 to the Petition.

18. The Report of Psychological Testing dated 5th August, 2022

of the said female minor states that she has Below Average Intellectual functioning and Average social functioning. Her Language, Speech and Hearing Report dated June, 2022 is also on record and it states that Chandani Thakur is having no significant delay in speech and language milestones acquisition. She requires speech therapy sessions to avoid institutional delay in global development. The Proposed Adopters have countersigned these reports, which are at page Nos.111-114 to the Petition.

19. The H.I.V. Report of the said female minor dated 31/12/2021 certifies the case as Non Reactive. This report is on record at page No.116 to the Petition.

20. The Post Card Size Photograph of the minor is on record at page No.117 to the Petition.

21. As regards the change of name, the Proposed Adopters desire that the said female minor 'Chandani Jitendra Thakur' be renamed as "Sarah Chandani Grieder".

22. The declaration of consent and willingness of the Proposed Adopters is on record and it states that they are willing to adopt said female minor child. They further undertake that they will allow

personal visits by the representative of the Authorized Foreign Adoption Agency (AFAA) during post-adoption follow up. This declaration is at page Nos.118-119 to the Petition.

23. The undertaking dated 20/03/2023 by the Authorized Foreign Adoption Agency (AFAA) “Foundation Enfants-Espoir Switzerland” to provide follow-up reports of the of the said female minor and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos.120-122 to the Petition.

24. The Power of Attorney dated 17/03/2023 duly executed by the Proposed Adopters in favour of the Petitioner institution is on record at page Nos.123-125 to the Petition.

25. 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.

26. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 26th October, 2022 which is taken on record and marked ‘X’ for identification.

27. Having considered the material on record as well as the Report of the Scrutiny Officer marked 'X', in my view, 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 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

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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.”

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

29. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (e) of the Petition, which read thus:-

“(a) For the Adoption of the proposed minor Sarah Chandani Grieder born on 21/12/2013 by the proposed adopters under Section 59(7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive

Parents of the said minor Sarah Chandani Grieder and having all parental rights, privileges and responsibilities over the said minor now in the care and custody Bal Asha Trust, Bal Asah Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai-400 011.

(c) Leave/ permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Sarah Chandani G born on 21/12/2013 and showing the proposed adopters as Parents.

(d) That the Proposed Adopters may be granted leave to remove the said minor Sarah Chandani Grieder from the Jurisdiction of this Hon'ble Court and to take the said minor to Switzerland or wherever they may reside in future.

30. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains 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 Judge's Order is also separately signed.
32. The present Foreign Adoption Petition is accordingly, disposed of.
33. There shall be no orders as to costs.

[R.I. CHAGLA, J.]