

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

FOREIGN ADOPTION PETITION NO. 25 OF 2022
WITH
JUDGE'S ORDER NO. 92 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 25 OF 2022

Shraddhanand Mahilashram ...Petitioner
And
John (John Baptist) Gauci and
Claire Anne Gauci Maltese Nationals ...Proposed Adopters

Mr. Rakesh Kapoor, for the petitioner.
Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social
Welfare.
Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J
DATE : 20th JANUARY, 2023

P.C. :

. The petitioner, an adoption agency recognized by the State Government and Central Adoption Resource Authority (CARA), New Delhi, has approached this Court seeking an order for adoption of a minor boy child Neel alias Neel Gauci by the proposed adopters.

2. Heard Mr. Kapoor, the learned counsel for the petitioner and Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social

Welfare. He has tendered report of the council in the context of the present petition. The same is taken on record and marked 'X'.

3. It is stated in the petition that the minor child Neel was born to an unwed mother on 16/9/2019 and admitted to the petitioner institution on 20/9/2019. On 23/9/2019, the Child Welfare Committee (CWC), Mumbai City II recognized the admission of the child with the petitioner institute. Thereafter, on 11/10/2019, the biological mother of the child relinquished her child before CWC and the CWC, in exercise of powers vested in it under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, has declared the minor legally free for adoption. The CARA has issued its no objection certificate for adoption, which is placed on record. The proposed adopters are Maltese Nationals, having been married for the past 17 years. They have no biological children. They propose to adopt the child. In order to support the assertion that they are medically fit to do so, copies of their health reports are placed on record. Additionally, the copies of relevant documents, including passport, marriage certificate etc. are also placed on record.

4. The prospective adoptive father is working as a Senior Lecturer with University of Malta and his annual salary (2021) is Euro 58,519.32 and the prospective adoptive mother is working as a Senior Lecturer with University of Malta and her annual salary

(2021) is Euro 47,995.85. In order to support the said statement, copies of tax certificates and financial statements are placed on record.

5. The home study report of the proposed adopters carried out by authorities of 'Agenzija Tama', San Gwann, Malta is placed on record, which recommends the proposed adopters as suitable to adopt the minor child.

6. The report submitted by the Indian Council of Social Welfare supports the assertions made in the present petition. The proposed adopters have seen the photograph of the minor child and they have also verified his medical status. They propose to adopt the child, having perused the aforesaid medical reports.

7. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors. in Writ Petition No.32065/2022 on 10/1/2023*, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication such matters can continue during the pendency of challenge raised against the Amendment Act.

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.”

8. In view of the above, this Court is satisfied that the prayers made in the present petition can be allowed. Accordingly, the petition stands allowed in terms of prayer clauses (a) to (e) which read as follows :

(a) For the Adoption of the male minor Neel Gauci born on 16/9/2019 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 minor Neel Gauci having all parental rights, privileges and responsibilities over the said child, now in the care and custody of the petitioner Shraddhanand Mahilashram, Shraddhanand Road, Matunga, Mumbai – 400 019.

(c) That the proposed adopters be allowed to change the name of the minor 'Neel' to 'Neel Gauci'.

(d) Leave / permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Neel Gauci, born on 16/9/2019 and stating thereon that the Proposed Adopters are the Parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said child from the jurisdiction of this Hon'ble Court and to take the said minor to Malta or wherever they may reside in future.

9. The Judge's order is separately signed.

(MANISH PITALE, J)