

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

FOREIGN ADOPTION PETITION NO. 27 OF 2022
WITH
JUDGE'S ORDER NO. 96 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 27 OF 2022

Maharashtra State Women's Council

Adoption Group

...Petitioner

And

1. Aadil Ebrahim

2. Lamya Bhatri Ebrahim

...Proposed Adopters

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Ms. Dipal Mehta, for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.

Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J

DATE : 2nd FEBRUARY, 2023

P.C. :

. The petitioner - Maharashtra State Women's Council Adoption Group, a registered specialized adoption agency recognized by the Government of Maharashtra under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015, has

approached this Court alongwith the prospective adoptive parents for adoption of minor child Jeevana, who is a Court committed child, born on 25/1/2022. The said child has been declared legally free for for adoption on 11/4/2022 by the Child Welfare Committee as per Section 38 of the aforesaid Act.

2. The prospective adoptive father is a British National and prospective adoptive mother is an Indian National and presently both are residing at Singapore. They are registered with Child Adoption Resource Information and Guidance System and they are found eligible by the Central Adoption Resource Authority (CARA) for adopting the minor child. The High Commission of India at Singapore has also found them eligible for the said purpose.

3. Heard Ms. Dipal Mehta, learned counsel appearing for the petitioner in the presence of Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare. Mr. Hareendran has tendered report of the Council which favourably recommends the case of the petitioner for adoption of the minor child by the prospective adoptive parents. The report is taken on record and marked 'X'.

4. The material on record shows that the prospective adoptive parents were married on 29/12/2010. They have one biological child i.e. son aged about 10 years. They do not have any adopted child. They have applied to the petitioner for adopting an Indian child.

The necessary documents pertaining to the prospective adoptive parents, including copies of marriage certificate, OCI Card, passports etc. are placed on record. The medical examination reports of the minor child are also placed on record. The prospective adoptive parents had given their acceptance for the procedure of adoption of the said minor child. The home study of the prospective adoptive parents was carried out by a social worker / consultant approved by the First Secretary, High Commission of India at Singapore and the said report alongwith psychological evaluation reports of the prospective adoptive parents show that they are favourably recommended for the adoption of the minor child. The prospective adoptive father holds Master's degree in Science and the prospective adoptive mother holds a Bachelor's degree in Fine Arts. The prospective adoptive father is employed as Global Head (Equities) with Klay Capital Pte Ltd. at Singapore, while the prospective adoptive mother is self employed and their joint annual income for the year 2021 is stated to be SGD 190,788.

5. This Court has perused the report submitted by the Scrutiny Officer of the Indian Council of Social Welfare alongwith the documents placed on record by the petitioner. The material on record demonstrates that the petitioner has indeed made out a case for allowing the present petition.

6. 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 of such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of the 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."

7. 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 (f) which read as follows :

(a) This Hon'ble Court may be pleased to appoint the proposed adoptive parents as the parents of the female minor, Jeevana now in the care of the Maharashtra State Women's Council Adoption Group, Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009.

(b) That the proposed adoptive parents be allowed to change the name of the minor, from 'Jeevana' to 'Zoya Ebrahim'.

(c) That the proposed adoptive parents may be granted leave to remove the aforesaid child, Jeevana @ Zoya Ebrahim from the jurisdiction of this Hon'ble Court and to take the minor out of India alongwith them, to their home i.e. wherever they may require her to.

(d) That the petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth Certificate of female minor 'Zoya Ebrahim' showing the names of the proposed adoptive parents as her parents.

(e) That the concerned Municipality / the Birth

Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor 'Zoya Ebrahim' within five working days from the date of application of the petitioner, as per the provisions of the sub-regulation 15 of the Adoption Regulations 18 and regulation 36.

(f) The concerned Regional Passport Office may be directed to issue passport for the said 'Zoya Ebrahim' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38.

8. The Judge's order is separately signed.

(MANISH PITALE, J)