

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

FOREIGN ADOPTION PETITION NO. 28 OF 2022
WITH
JUDGE'S ORDER (L) NO. 28662 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 28 OF 2022

Maharashtra State Women's Council

Adoption Group

...Petitioner

And

1. Prashant Ruperee

2. Nidhi Ruperee

...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

filed present petitioner alongwith the prospective adoptive parents for adoption of minor child Nidhi, who is a Court committed child, born on 16/3/2020. On 29/9/2020, the child has been declared legally free for adoption by the Child Welfare Committee as per Section 38 of the aforesaid Act.

2. The prospective adoptive father is an American National and prospective adoptive mother is an Indian National (Greencard holder) and both are residents of United States of America. They were registered with Child Adoption Resource Information and Guidance System and found eligible by the Central Adoption Resource Authority (CARA) for adoption.

3. The prospective adoptive parents were married on 26/1/2004 and they have one biological child i.e. a son aged about 14 years and they do not have any adopted child. The petition is accompanied by copies of necessary documents pertaining to the prospective adoptive parents, including marriage certificate, passports, OCI Cards, Green Card and medical certificates.

4. The material on record shows that the minor child suffers from Congenital Heart disease (a defect that affects the normal functioning of heart and is a birth defect but it is a treatable condition). The prospective adoptive parents are aware about the same and they have seen the child and medical condition of the

child. Home study of the prospective adoptive parents was carried out by “Adoption Associates”, an Adoptive Placement Agency at USA. The psychological evaluation report of the prospective adoptive parents is also placed on record and the said report favourably recommends the case of the prospective adoptive parents to adopt the minor child.

5. The prospective adoptive father is a Mechanical Engineer employed with Whirlpool USA and the prospective adoptive mother is a self employed person dealing in e-commerce and their joint annual declared taxable income for 2020 is stated to be USD 149,977. The documents supporting the statements are placed on record.

6. 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’.

7. 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 grant of the present petition.

8. 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."

9. 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, Nidhi 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 'Nidhi' to 'Niya Ruperee'.

(c) That the proposed adoptive parents may be granted leave to remove the aforesaid child, Nidhi @ Niya Ruperee 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 'Niya Ruperee' 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 'Niya Ruperee' 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 'Niya Ruperee' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38.

10. The Judge's order is separately signed.

(MANISH PITALE, J)