

*Sharada*

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

INDIAN ADOPTION PETITION NO. 49 OF 2023

WITH

JUDGE'S ORDER NO. 83 OF 2023

IN

INDIAN ADOPTION PETITION NO. 49 OF 2023

Vatsalya Trust, Mumbai

...Petitioner

And

Mr. Debapriya Ghoshal and Manisa Ghoshal

...Prospective  
Adoptive Parents

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Mrs. Aarti P. Kulkarni, Advocate for the Petitioner.

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

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

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CORAM : R.I. CHAGLA, J.

DATE : 9ND NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the Petitioner and the Prospective Adoptive Parents, adoption of male minor Kartik (**"the said male minor"**) born on 07/11/2022 is sought.

2. The biological mother of the said male minor surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District on 08/11/2022 and he was admitted to the Petitioner institution on the same day. On 10/11/2022 through its order, the CWC, Mumbai Suburban District recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The Admission Order of CWC is on record at Page No. 21 to the Petition.

3. After making due inquiry under Section 38 of said Act, the CWC, Mumbai Suburban, Dist. Mumbai declared the said male minor Kartik “Legally Free for Adoption” on 10/1/2023. The Free for adoption Certificate is on record at Page Nos. 23-24 to the Petition.

4. The Proposed Adopters are Indian nationals, residing at North 24 Parganas, West Bengal, aged about 39 and 34 years respectively. They have been married for the past 11 years (02/05/2012) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on record at Page No. 38 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized

Adoption Agency (Petitioner) in support of the adoption of the said male minor child is on record at page Nos.110-115 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 16/06/2023 is on record at page No.20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor child.

8. The Medical Report of the Prospective Adoptive Parents dated 13/6/2023 are on record and it states that they do not suffer from any chronic, contagious and fatal diseases. Their HIV and HbsAg Test reports certify the case as Non Reactive. These reports can be found at page Nos.28-37 to the Petition.

9. The Prospective Adoptive father is working as a Senior Manager with Axis Bank, Kolkata since 2010 and his monthly (May-2023) gross salary is Rs.1,36,670/-. The Income Tax Returns, pay slips and Employment Certificate are on record at page Nos.48-54 to the Petition.

10. The Prospective Adoptive mother is a Homemaker.

11. The copies of Pan Card, Proof of Residence and supportive

financial documents are on record at page Nos.39-42 & 55-59 to the Petition.

12. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos.60-67 and 72-78 to the Petition.

13. The Home Study Part II Assessment Reports dated 27/11/2019 and 13/01/2023 of the Social Worker of “Mukti Rehabilitation Centre”, 24 Parganas (North), West Bengal are on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Reports are at page Nos.68-71 & 79-84 to the Petition”.

14. The child security undertaking dated 13/07/2023 of the Prospective Adoptive Mother’s sister residing at Kolkata to look after the said male minor in case of any mishap to the Prospective adoptive parents is on record at page No.95-96 to the Petition.

15. The Pre-adoption foster care undertaking dated 13/06/2023 is on record at Page Nos. 45-47 to the Petition.

16. The Medical Examination Report of the said male minor

Kartik dated 19/05/2023 states “Health status of the child: Normal child. Overall observation of the child: Up to now his overall development is within normal limits”. The Proposed Adopters have countersigned the said report, which is at page Nos.100-106 to the Petition.

17. The HIV report of the said male minor dated 09/11/2022 certifies the case as Negative. This report is at page No.108 to the Petition. The Photograph of the said male minor is on record at page 109 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Kartik' be renamed as “Aarish Ghoshal”.

19. The Declaration of consent and undertaking by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the male minor Kartik born on 07/11/2022. the said Declaration is at page No.43 to the Petition.

20. The undertaking dated 13/06/2023 given by the authorities of “Mukti Rehabilitation Centre”, 24 Parganas (North), West Bengal

for furnishing post adoption follow-up reports is also on record at page No.155 to the Petition.

21. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 3<sup>rd</sup> November, 2023 which is taken on record and marked 'X' for identification.

23. 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 male minor if he is adopted by the Proposed Adoptive Parents.

24. 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.,<sup>1</sup>** 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

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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 continued to be passed until the challenge is finally*

*decided.”*

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

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

*“(a) That the Prospective Adoptive Parents be given the said child in Adoption and be declared as parents and has all parental legal rights, Privileges and responsibilities over the said minor.*

*(b) That the Prospective Adoptive Parents 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.*

*(c) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Aarish Ghoshal born on 07/11/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.*

*(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Kartik to “Aarish Ghoshal” born on 07/11/2022.*

27. 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 his becoming a major. This undertaking is accepted as an undertaking to this Court.

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

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

30. There shall be no orders as to costs.

**[R.I. CHAGLA, J.]**