

Manoj Wakle

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

FOREIGN ADOPTION PETITION NO.19 OF 2023
WITH
JUDGE'S ORDER NO. 97 OF 2023
IN
FOREIGN ADOPTION PETITION NO.19 OF 2023

Adharashram, Through - Rahul M. Jadhav,
Adoption Coordinator ...Petitioner

And

Mr. Fabio Maffezzini, Italian National and ...Proposed
Mrs. Marianna Rampini, Italian National Adopters

Mr. Rakesh K.L. Kapoor i/by Ms. Rakesh K.L. Kapoor & Co., Advocate
for the Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 14TH DECEMBER, 2023.

ORDER :

1. This Foreign Adoption Petition is filed seeking adoption
of the female minor Aaradhya ("the said female minor") born on 19th

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November, 2020. The biological mother relinquished the said female minor child before the Child Welfare Committee (CWC), Nashik on 29/12/2020 and the said female minor's custody was given to the Petitioner Institution Adharashram on the same day as per the order of the CWC, Nashik dated 29/12/2020 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The Admission Order and Transfer Orders of the CWC are on record at Page No.18 to the Petition.

2. After making due inquiry under Section 38 of said Act, the CWC, Nashik declared the said female minor "Legally Free for Adoption" as on 05/03/2021. The Free for adoption Certificate is on record at Page No. 17 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated (27/03/2023) to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993. The said No Objection Certificate is on record at Page No. 25 to the Petition.

4. The Affidavit of the Authorized person of the Specialized Adoption Agency (Petitioner) in support of adoption of the said

female minor is on record at Page Nos. 19-24 to the Petition.

5. The Proposed Adopters are Italian nationals, residing at Domodossola, Italy both aged about 42 years having been married for the past 8 years (30/05/2015) with no biological children.

6. The Proposed Adopters joint photograph and copies of Passport are on record at Page Nos. 26-41 to the Petition.

7. The Medical Reports dated 02/08/2022 of the Proposed Adopters states “There are no chronic contagious or incurable pathologies, clinically noticeable which contraindicate the parental role”. Their HIV and HbsAg test reports certify the case as Non Reactive. The said Report is on record at Page Nos. 45-64 to the Petition.

8. The Prospective Adoptive Father is working as a Lead Services specialist with GE Additive Italy Srl since 1st March, 2017 and his income to the Tax Year 2021 is of Euros 44,277. His Employment Certificate, Income Tax Certificate and Salary Slips are on record at Page Nos. 65-72 & 86-89 to the Petition.

9. The Prospective Adoptive Mother is working as a Director

of CSF of Domodossola and Omegna with EnAIP Piedmont ETS, Turin, Italy and her income for Tax Year 2021 is of Euros 29,662. Her Employment Certificate, Income Tax Certificate and Salary Slips are on record at Page Nos. 73-80 & 83-85 to the Petition.

10. The childcare arrangement plan declaration by the Prospective Adoptive Parents is on record at Page No.96-97 to the Petition.

11. The Home Study Report dated 29/08/2022 by the authorities of “Mehala Families for Children Association”, Italy has found the Proposed Adopters suitable for adopting a child. The said report is on record at Page Nos.98-107 to the Petition.

12. The Psychological Evaluation Report dated 07/09/2022 by Doctor Barbara Meroni, Psychologist has recommended the couple for the adoption of a child. This report is on record at Page Nos. 108-111 to the Petition.

13. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at Page Nos. 112-115 to the Petition.

14. The child security undertaking dated 18/09/2023 given by the Prospective Adoptive Mother's cousins residing at Verbania, Italy to take care of the said female minor child in case of any unforeseen mishap to the Proposed Adopters is on record at Page Nos. 144-145 to the Petition.

15. The Medical Examination Report of the said female minor dated 13/12/2022 states, "Health Status: Special Need. Overall Observation of the child: Case of Congenital Hydrocephalus VP Shunt, surgery done on 27/01/2022. Advised Regular follow up with Pediatrician, Developmental Pediatrician Neurosurgeon in view of operated Hydrocephalus". The Proposed Adopters have countersigned this report, which is on record at Page Nos. 149-163 to the Petition.

16. The H.I.V. report of the said female minor dated 09/08/2023 certifies the case as Non Reactive. The said report is on record at Page No. 165 to the Petition. The Post Card Size Photograph of the said female minor is on record at Page No.166 to the Petition.

17. As regards the change of name, the Proposed Adopters desire that the said female minor "Aaradhya" be renamed as

“Aaradhya Maffezzini”.

18. The Declaration of willingness and undertaking of the Proposed Adopters states that they are willing to adopt the the said female minor. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency for follow up of the progress of the said female minor child as required under the Adoption Regulations. The said Declaration is on record at Page Nos. 167-169 to the Petition.

19. The undertaking dated 02/03/2023 of the Authorized Foreign Adoption Agency (AFFA) “Mehala Families for Children Association”, Italy to provide follow-up report of the said female minor child and make alternative arrangement in case of disruption of the adoptive family is on record at Page No. 170-171 to the Petition.

20. The copy of Power of Attorney dated 02/03/2023 duly executed by the proposed adopters in favour the Petitioner institution is on record at Page No. 172-174 to the Petition.

21. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption

is valid up to 05/05/2025.

22. The Scrutiny Officer, Mr. O. Hareendran has tendered the Report/Representation from the Indian Council of Social Welfare dated 07/12/2023 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 which is marked 'X', for identification, I am of the view that it would be in the interest of the said female minor child that she is adopted by the Proposed Adopters.

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.,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 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 (e) of the Petition, which read thus:-

“(a) For the Adoption of the proposed Female minor Aaradhya Maffezzini, born on 19/11/2020 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 Aaradhya Maffezzini and having all parental rights, privileges and responsibilities over the said minor now in the care and custody of the Petitioner institution Adharashram, 491/6 Gharpure Ghat, Nashik-422 002, Maharashtra.

(c) That the proposed adopters be allowed to change the name of the said minor ‘AARADHYA’ to “Aaradhya Maffezzini”.

(d) Leave/permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Aaradhya Maffezzini, born on 19/11/2020 and stating thereon that the Proposed Adopters are parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said minor Aaradhya Maffezzini from the jurisdiction of this Hon’ble Court and to take the said minor to ITALY or wherever they may reside in future.”

27. The Judge's Order is accepted and signed separately.
28. It is directed that the Petitioner shall obtain a further undertaking from the Adoptive Parents that they shall not give the said female minor child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.
29. The present Foreign Adoption Petition is accordingly, disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]