

Manoj Wakle

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

INDIAN ADOPTION PETITION NO.53 OF 2023
WITH
JUDGE'S ORDER NO. 89 OF 2023
IN
INDIAN ADOPTION PETITION NO.53 OF 2023

Maharashtra State Women's Council ...Petitioner
Adoption Group

And

Mr. Anup Kumar Barooah and ...Co- Petitioners/
Mrs. Upasana Sharma Proposed Adopters

Ms. Dipal Sanjanwala Mehta, Advocate for the Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 30TH NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of female
minor Veera ("the said female minor") born on 09th March, 2023 is

sought. The said female minor was admitted to the Petitioner institution on 24/03/2023 by the biological mother for the child's temporary shelter and care. On 27/03/2023 the biological mother executed a Deed of Surrender before the Child Welfare Committee (CWC), Mumbai City-II and the said female child's custody was given to the Petitioner institution on the same day as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 27/03/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The CWC Admission order is on record at page No. 20 to the Petition.

2. After making due inquiry under Section 38 of said Act, the CWC, Mumbai City-I declared the said female minor "Legally Free for Adoption" as on 23/06/2023. The Free for adoption order is on record at Page Nos. 21-22 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals currently residing at Morigaon District, Assam aged about 42 years and 46 years respectively, having been married for the past 9 years (25/07/2014) with no biological children.

4. The Motivation Letter of the Proposed Adopters is on record

at Page No. 26 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is on record at Page Nos. 162-168 to the Petition.

6. The Minutes of the Adoption Committee meeting held on 21/09/2023 is on record at Page Nos. 18-19 to the Petition and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 07/09/2023 states, “the health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway”. Their HIV and HBsAg test reports certifies the case as Negative. The said Medical Report is on record at Page Nos. 29-34 to the Petition.

8. The Prospective Adoptive father is working as a Teacher with Barhampur S.S.I.H.S. School Since 11/12/2014 and his monthly (September-2023) gross salary is Rs. 66,384/-. His Pay Slips and Income Tax Returns are on record at Page Nos. 48-71 to the Petition.

9. The Prospective Adoptive mother is working as a Lower

Division Assistant with The District & Sessions Judge, Morigaon since 06/03/2014 and her monthly (September-2023) gross salary is Rs. 42,540/-. Her Pay slips and Income Tax Returns are on record at Page Nos. 73-75 & 88-107 to the Petition.

10. The proof of residence (rental agreement), copies of PAN card and supportive financial documents are on record at page Nos. 38-41, 47,72 &76-87 to the Petition.

11. The Childcare arrangement plan undertaking of Adoptive Mother and her mother-in-law is on record at Page Nos. 109 to the Petition.

12. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 110-116 & 121-128 to the Petition.

13. The Home Study Report Part II: Assessment reports of the Social Worker of Specialized Adoption Agency “Morigaon Mahila Mehfil, Morigaon, Assam” dated 12/02/2020 and 16/02/2023 are on record and the reports have found the prospective adoptive parents suitable for adopting a child. The said Home study reports are at Page Nos. 117-120 & 129-133 to the Petition.

14. The child security undertaking dated 10/10/2023 given by the Prospective Adoptive Mother's brother and sister-in-law residing at Gautam Buddha Nagar, Uttar Pradesh to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos. 158-161.

15. The Pre-adoption foster care undertaking dated 09/10/2023 is on record at Page 44-46 to the Petition.

16. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents. The Prospective Adoptive Parents have further agreed and undertaken to the Petitioner institution and to the Hon'ble Court that they will not give the said child in further adoption to anyone residing outside India. The said Declaration is on record at Page Nos. 42-43 to the Petition.

17. The Medical Examination of the said female minor dated 05/08/2023 states, "Overall Observation of the child: The child has a congenital heart disease(ASD). Follow-up will be required for this. Physical and mental milestones are normal for age." The Proposed Adopters have countersigned the said report which is on record at

Page Nos. 142-155 to the Petition.

18. The HIV report of the said female minor dated 01/07/2023 certifies the case as Non Reactive. This report is on record at Page No. 156 to the Petition. The Post Card Size Photograph of the said female minor is on record at Page No.25 to the Petition.

19. As regards the change of name, the Proposed Adopters desire that the said female minor 'Veera' be renamed as "Shivangi Barooah".

20. The undertaking dated 03/10/2023 given by the Specialized Adoption Agency "Morigaon Mahila Mehfil, Morigaon, Assam" for furnishing post adoption follow-up reports is on record at Page No. 157 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. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation of the Indian Council of Social Welfare dated 09th 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 dated 09th November, 2023 which is marked 'X', for identification, I am of the view that it would be in the interest of the said female minor if she 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.**,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;

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(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) This Hon'ble Court may be pleased to appoint the Co-Petitioners, Anup Kumar Barooah and Upasana Sharma

as the adoptive parents of the female minor, Veera @ Shivangi Barooah, in the care of the Maharashtra State Women's Council Adoption Group at Maharashtra State Women's Council Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai- 400 009,

(b) That the Co-Petitioner be allowed to change the name of the minor from 'Veera' to 'Shivangi Barooah',

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor alongwith them, i.e. to the Co-Petitioners' family wherever they may reside or their work may require them to,

(d) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulation,"

27. The Judge's Order is also accepted and signed separately.

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest the sum of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child till the Adopted Child attains the age of majority. They have agreed to handover the investment receipt to the Adopted Children on her becoming a major. This undertaking

is accepted as an undertaking to this Court.

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

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]