

Sharayu Khot.

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

INDIAN ADOPTION PETITION NO. 14 OF 2024
WITH
JUDGE'S ORDER NO. 21 OF 2024

Bal Anand, World Children Welfare Trust India ...Petitioner

And

Surabhi Mathur

...Prospective
Adoptive Parent

Mr. Rakesh K.L. Kapoor i/by Rakesh K.L. Kapoor and Co. for the
Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J
DATE : 7 February 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Prospective Adoptive Parent has sought adoption of the male minor
Kaivalya (“**the said male minor**”), born on 5th January 2022. The
biological mother surrendered the said male minor before the Child
Welfare Committee (CWC), Mumbai Suburban District on 11th

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January 2022 and the child's safe custody was given to the Petitioner Institution on the same day.

2. On 12th January 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 Safe Custody Order of CWC is on record at page No. 23 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District, Mumbai declared the said male minor "Legally Free for Adoption" on 21st March 2022. The Free for Adoption Certificate is on record at Page Nos. 21-22 to the Petition.

4. The Prospective Adoptive Parent is a single mother of Indian National residing at Indore, Madhya Pradesh, aged about 42 years. She was married earlier on 4th February 2008 and separated by Settlement Deed on 7th January 2009 and is having no children. The said Settlement Deed is on record at page Nos. 25-27 to the Petition.

5. Motivation Letter by the Prospective Adoptive Parent is on record at page No. 30 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 is on record at page Nos. 94-98 to the Petition.

7. The Meeting of Adoption Committee held on 19th July 2022 is on record at page No. 19-19A to the Petition. The Committee has decided that the Prospective Adoptive Parent is suitable to adopt the said male minor child.

8. The Medical Report of the Prospective Adoptive Parent dated 4th July 2022 states, "Currently she is not suffering from any health problem. She is fit for parenting adopted child". Her HIV I & II and Hepatitis B test Reports certifies the case as Non-Reactive. The said Reports are on record at page Nos. 28-29 to the Petition.

9. The Prospective Adoptive Parent is a self employed Dentist and running her own Dental Clinic in the name of "Maa Durga Clinic" at Aranya Nagar, Indore for the past 8 years. Her

income for the Assessment Year 2023-24 is Rs. 4,87,110/-. Her Income Tax Returns for the Assessment Years 2020-21, 2022-23 and 2023-24 are on record at page Nos. 36-41 to the Petition.

10. The Proof of Residence (Copies of Aadhar card) and PAN Card and other supportive financial documents are on record at page Nos. 31-32 and 42-45 to the Petition.

11. The childcare arrangement plan declaration by the Prospective Adoptive Parent is on record at page Nos. 46-47 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 48-63 to the Petition.

13. The Home Study Report Part II: Assessment Reports dated 24th March 2019 and 23rd January 2022 of the social worker of “Sanjeevani Seva Sangam”, Indore, Madhya Pradesh is on record and the Reports have found the Prospective Adoptive Parent suitable for adopting a child. The said Reports are at page Nos. 64-71

to the Petition.

14. The child security undertaking dated 15th September 2022 by the Prospective Adoptive Parent's brother residing at Gaziabad, U.P. to look after the said male minor in case of any mishap to the Prospective Adoptive Parent is on record at page Nos.78-79 to the Petition.

15. Medical Examination Report of the said male minor dated 21st May 2022 states "Health Status: Normal. Overall Observation of the child: Kaivalya is an active 5½ months old child. Whose growth and development appears age appropriate". The Prospective Adoptive Parent has countersigned the said Medical Examination Report. The said Report is on record at page Nos. 83-90 to the Petition.

16. As regards the change of name, the Adoptive Parent desires that the said male minor 'Kaivalya' be renamed as "Aadish Mathur".

17. The HIV test Report of the said male minor dated

3rd October 2023 certifies the case as Non Reactive. The said Report is on record at page No. 92 to the Petition.

18. Post Card Size Photograph of the said male minor is on record at page 93 to the Petition.

19. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parent states that she is willing to be appointed and declared as the Adoptive Parent of the said male minor. This Declaration is at page No. 33 to the Petition.

20. The Pre-adoption foster care undertaking dated 21st July 2023 is on record at page Nos. 34-35 to the Petition.

21. The undertaking dated 2nd January 2023 given by the specialized adoption agency “Navdeep Child Welfare Center (a project of Sanjeevani Seva Sangam)”, Indore, Madhya Pradesh for furnishing post adoption follow-up Reports is on record at page No.99 to the Petition.

22. The Petitioner Institution’s recognition from the

Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 5th May 2025.

23. The Scrutiny Officer, Mr. O. Hareendran, has tendered Report/Representation of Indian Council of Social Welfare dated 28th January 2024, which is taken on record and marked “X” for identification.

24. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, I am of the view that it would be in the interest of the said male minor, if he is adopted by the Proposed Adopters.

25. 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 :

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

“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.”

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

27. 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 Parent be given the said minor **Aadish Mathur** in adoption and be declared as parent having all parental legal rights, Privileges and responsibilities over the said minor.
- (b) That the Prospective Adoptive Parent 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 **Aadish Mathur** born on 5th January, 2022 and stating thereon that the Prospective Adoptive Parent is the Parent of the said minor.
- (d) That the Prospective Adoptive Parent be allowed to change the name of the minor from ‘Kaivalya’ to “**Aadish Mathur**” born on 05/01/2022.”

28. There is an undertaking in the Judge's Order that Adoptive Parent will create a fixed deposit for an amount of Rs. 1,00,000/- (Rupees One Lakhs only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive Parent has agreed to handover investment receipts to the Adopted child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

29. Judge's Order is accepted and signed separately.

30. The Indian Adoption Petition is accordingly, disposed of.

31. There shall be no order as to costs.

[R.I. CHAGLA J.]