

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. 23 OF 2024
WITH
JUDGE'S ORDER NO. 33 OF 2024

Family Service Centre

...Petitioner

And

Tanmoy Sarkar and
Lopamudra Sarkar Basu

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i/by M/s. Rakesh K.L. Kapoor and Company for the Petitioner.

Mr. Aditya Mehta a/w Mr. Mohit Sahani i/by S.V. Kapadia for the Prospective Adoptive Parents.

Mr. O. Hareendran, Scrutiny Officer present.

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

Mr. Tanmoy Sarkar and Ms. Lopamudra Sarkar Basu, Adoptive Parents present through V.C.

Ms. Sheetal Rebello, Deputy Director of Petitioner present.

CORAM : R.I. CHAGLA J

DATE : 27 March 2024

ORDER :

1. The matter has come up today pursuant to the prior

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order dated 21st February 2024, wherein this Court had directed the presence of the Prospective Adoptive Parents, who have jointly filed the Petition with the Petitioner and who are residents of Kolkata, West Bengal as clarification was sought from them as to their making investment in the name of the minor child whose adoption they have sought. This Court had allowed their presence virtually.

2. Today, the Prospective Adoptive Parents who are present virtually have expressed their willingness to invest a sum of Rs. 1,00,000/- in Mutual Funds in the name of the adopted child upon this Court allowing the above Indian Adoption Petition.

3. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Satvik (“**the said male minor**”). The said male minor was born on 15th April 2023. The birth mother surrendered the said male minor before the Child Welfare Committee (“**CWC**”), Mumbai City-I on 21st April 2023 and his safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 21st April 2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The Custody Order of CWC is

on record at page No. 22 to the Petition.

4. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said male minor “Legally Free for Adoption” on 23rd June 2023. The Free for adoption Certificate is on record at page No. 21 to the Petition.

5. The Prospective Adoptive Parents are resident of Kolkata, West Bengal, aged about 51 and 45 years respectively. They have been married for the past 13 years (11th December 2010) with no biological children.

6. Motivation letter from the Prospective Adoptive Parents is on record at page No. 32 to the Petition.

7. 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. 126-130 to the Petition.

8. The Minutes of Adoption Committee Meeting held on 19th July 2023 is on record at page Nos. 19-20 to the Petition. The

Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.

9. The Health Report dated 13th July 2023 of the Prospective Adoptive Father states, “Does not suffer from any chronic, contagious or fatal disease except T2DM which is under control”. His HIV and HBsAg test Report certify the case as Non Reactive. The said Reports is on record at page Nos. 26-29 to the Petition.

10. The Health Report dated 13th July 2023 of the Prospective Adoptive mother states, “Does not suffer from any chronic, contagious or fatal disease except Hypothyroidism”. Her HIV and HBsAg test Report certify the case as Non Reactive. The said Report is on record at page Nos. 30-31 to the Petition.

11. The Prospective Adoptive father is a Freelance Soft Skill Trainer since 2019 and his income for the Assessment Year 2023-24 is Rs. 4,46,490/-. Income Affidavit and Income Tax Returns are on record at page Nos. 45-62 to the Petition.

12. The Prospective Adoptive mother is working as a

Back Office Administrator with Ake Exporter Pvt. Ltd., Kolkata since 2010 and her monthly (June-2023) gross salary is Rs. 31,500/-. Her Pay slips and Income Tax Return for the Assessment Year 2023-24 are on record at page Nos. 63-66 to the Petition.

13. Proof of residence, Pan Card copies and supportive financial documents are on record at page Nos. 33-35 and 67-81 to the Petition.

14. The childcare arrangement plan statement by the Prospective Adoptive Parents and undertaking by the mother of Prospective Adoptive Father are on record at page Nos. 82-85 to the Petition.

15. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 86-94 to the Petition.

16. The Home Study Report part II: Assessment Report dated 25th February 2023 by the Social Worker of Specialized Adoption Agency, "Indian Society for Rehabilitation of Children"

Kolkata is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at page Nos. 95-101 to the Petition.

17. The child security undertaking dated 14th August 2023 given by the Prospective Adoptive Father's younger sister and brother-in-law residing at Kolkata, West Bengal to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 108-111 to the Petition.

18. Medical Examination Report dated 10th January 2022 of the said male minor states "Status of the child: Normal. Overall Observation of the child: Development is as per age". The Proposed Adopters have countersigned the said Report, which is on record at page Nos. 115-121 to the Petition.

19. The HIV Report of the said male minor dated 24th June 2023 certifies the case as Non Reactive. The said Report is on record at page No. 124 to the Petition. Post Card Size Photograph of the said male minor is on record at page No. 125 to the Petition.

20. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. This declaration is on record at page Nos. 36-39 to the Petition.

21. The Pre-adoption foster care undertaking dated 14th August 2023 is on record at page Nos. 40-44 to the Petition.

22. As regards the change of name, the Adoptive Parents desire that the said male minor 'Satvik' be renamed as "Arinjay Sarkar".

23. Undertaking dated 6th December 2023 given by the authorities of "Indian Society for Rehabilitation of Children" Kolkata for furnishing post adoption follow-up Reports is on record at page No. 131 to the Petition.

24. The Petitioner Institution has also given an undertaking dated 27th December 2022 stating that they will submit the post adoption follow up Reports for the two years as per

Adoption Regulations.

25. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 5th May 2025.

26. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 15th February 2024, which is taken on record and marked "X" for identification.

27. 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 Prospective Adopters.

28. 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

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

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.”

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

30. 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 having all parental legal rights, Privileges and responsibilities over the said minor **Arinjay Sarkar**.

(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 male minor **Arinjay Sarkar** born on **15/04/2023** and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

- (d) That the Prospective Adoptive Parents be allowed to change the name of the minor from 'SATVIK' to **"Arinjay Sarkar"** born on **15/04/2023**.

31. In the Judge's order, the Adoptive Parents have agreed to invest sum of Rs. 1,00,000/- in the name of the Adopted Child which investment is now stated by the Adoptive Parents to be in ICICI Pru Child Care Fund-Gift Plan and/or HDFC Children's Gift Fund. The investment shall be to the benefit of the Adopted Child and the proceeds of investment (principal and interest) shall be handed over to the Adopted Child upon his becoming major. This undertaking is accepted as an undertaking to this Court.

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

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

34. There shall be no order as to costs.

[R.I. CHAGLA J.]

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