

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO. 24 of 2024
WITH
JUDGE'S ORDER NO. 34 OF 2024**

St. Catherine's Home

...Petitioner

And

NIKITA
KAILAS
DARDE

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Date: 2024.02.26
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**1. Mandar Ramesh Kulkarni
2. Madhura Mandar Kulkarni**

**...Prospective
Adoptive
Parents**

Mr. Rakesh Kapoor i/b M/s. Rakesh K.L. Kapoor & Co., Advocate for the
Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

Mr. Mandar Ramesh Kulkarni Adoptive Father present.

Ms. Madhura Mandar Kulkarni Adoptive Mother present.

Kum. Tanush Mandar Kulkarni – minor present.

CORAM : R.I. CHAGLA, J.

DATE : 21st FEBRUARY 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive
parents have sought adoption of male minor Bhairav ('the said male minor'),

born on 07/10/2022. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai Suburban-II on 12/10/2022 and he was admitted to the Petitioner institution on the same day. On 13/10/2022 through its order, the CWC, Mumbai Suburban-II recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ('the said Act'). The Admission Order of the CWC is on record at page No.22 to the Petition.

- 2.** After making due inquiry under section 38 of the said Act, the CWC, Mumbai Suburban-II declared the said male minor "Legally Free for Adoption" on 18/01/2023. The Free for adoption order is on record at page No. 21 to the Petition.
- 3.** The Prospective Adoptive Parents are Indian nationals, residing at Dombivli, Dist. Thane, Maharashtra, aged about 38 and 33 years respectively. They have been married for the past 12 years (22/05/2011) with no biological children.
- 4.** The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 36 to the Petition.
- 5.** 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. 119-123 to the Petition.

- 6.** The Minutes of Adoption Committee Meeting held on 24/7/2023 is on record at page Nos. 19-20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.
- 7.** The Medical report of the prospective adoptive parents dated 23/07/2023 states that both are in good health, not suffering from any major disease except diabetes but under control. Their HIV I & II and Hepatitis B test reports certify the case as Non-reactive. These reports can be found at page Nos. 26-35 to the Petition.
- 8.** The Prospective Adoptive father is working as a Specialist-IT Support with LTI Mindtree Ltd., Powai, Mumbai since 19/08/2021 and his monthly (June-2023) gross salary is Rs. 57,611/-. His Employment Certificate, pay slip and Form No. 16 are on record at page Nos. 47-60 to the Petition. The Prospective Adoptive Mother is a Homemaker.
- 9.** The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents are on record at page Nos. 37-40 & 61-65 to the Petition.
- 10.** The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 66-75 to the Petition.
- 11.** The Home Study Report Part II: Assessment reports dated 15/02/2020 and

25/03/2023 of the social worker of Specialized Adoption Agency, “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane is on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a child. These Reports are at page Nos. 83-93 to the Petition.

12. The Child Security Undertaking dated 07/10/2023 given by the Prospective Adoptive Father’s cousin sister and brother-in-law residing at Vartak Nagar, Thane to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 101-102 to the Petition.

13. The Medical Examination Report of the said male minor dated 09/06/2023 is on record at page Nos. 106-115 to the Petition. It states, ‘Health Status: Normal. Overall observation of the child: He has achieved most of his gross motor milestones expected for his age.’ The Prospective Adoptive Parents have countersigned the Medical Examination Report.

14. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor ‘Bhairav’ be renamed as “Tanush Mandar Kulkarni”.

15. The HIV Test Report of the said male minor dated 14/10/2022 certifies the case as Negative. This report is on record at page No. 117 to the petition.

16. The Post Card Size Photograph of the said male minor is at page No. 118 to

the Petition.

- 17.** The Declaration of consent, willingness 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 said male minor. This Declaration is at page No. 41-43 to the Petition.
- 18.** The Pre-Adoption Foster Care Undertaking dated 13/10/2023 is on record at page No. 44-46 to the Petition.
- 19.** The Undertaking dated 22/07/2023 given by the authorities of “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane for furnishing post adoption follow-up reports is on record at page No. 124 to the Petition.
- 20.** The Petitioner institution’s recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid for a period up to 05-05-2025.
- 21.** Mr. O. Hareendran, Scrutiny Officer has tendered Report/ Representation from the Indian Council of Social Welfare (ICSW) dated 15th February 2024 which is taken on record and marked ‘X’ for identification.
- 22.** Having considered the material on record as well as the Report of the Scrutiny Officer dated 15th February 2024 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.

23. 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

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

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."

24. Hence, it is clear that this Court can consider and disposed of the present petition.

25. 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 **Tanush Mandar Kulkarni** in Adoption and be declared as parents having 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 **Tanush**

Mandar Kulkarni born on 07/10/2022 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 **Bhairav** to “**Tanush Mandar Kulkarni**”.

26. The Judge’s order is also separately signed.

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 the Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipt to the Adopted Child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

28. The Indian Adoption Petition is accordingly disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]