

Sharada

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

INDIAN ADOPTION PETITION NO. 32 OF 2024
WITH
JUDGE'S ORDER NO. 46 OF 2024

Bal Asha Trust

...Petitioner

And

Vishwanath and Swathi Rajshekar and Mahi
Vishwanath Meti (Female Minor)

...Prospective
Adoptive Parents

Mr. Rakesh Kappor i.by Kappor and co., Advocate for the Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 13TH MARCH 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Mahi (“**the said female minor**”) born on 10/04/2023. The biological parent surrendered the said female minor before the Child

Welfare Committee (CWC), Mumbai City-II on 13/04/2023 and the child's safe custody was given to the Petitioner institution on the same day as the the order dated 13/04/2024 of the said CWC under the Provisions of the Juvenile Justice(Care and Protection of Children) Act, 2015. The admission Order of the CWC is on record at page No.23 to the Petition.

2. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City II declared the said female minor ("Legally Free for Adoption") on 27/06/2023. The Free for adoption Certificate is on record at page Nos. 21-22 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Raichur, Karnataka, aged about 41 years and 36 years respectively. They having married for the past 11 years (29/06/2012) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No.33 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.118-122 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 17/09/2023 are 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 female minor.

7. The Health reports dated 24/08/2023 of the Prospective Adoptive Parents is on record and states, "They do not suffer from any chronic, contagious or fatal disease and are fit to adopt". Their HIV and HbsAg test reports certify the case as Negative. These reports can be found at pages Nos.27-32 to the Petition.

8. The Prospective Adoptive Father is working as an Associate Professor in the Department of Anesthesia at Navodaya Medical College Hospital & Research Centre, Raichur since 2012 and his monthly (July-2023) gross salary is Rs.38,000/-The Salary Certificate and Income Tax Returns are on record at page Nos.41-44 to the Petition.

9. The Prospective Adoptive Mother is working as an Assistant Professor in the Department of Anatomy at Navodaya Medical College Hospital & Research Centre, Raichur since 2012 and her

monthly (July-2023) gross salary is Rs.38,000/- The Salary Certificate and Income Tax Returns are on record at page Nos.45-48 to the Petition.

10. The Proof of Residence, Pan Card copies and supportive financial documents are on record at page Nos.34-36 & 49-51 to the Petition.

11. The Childcare Arrangement Plan Undertaking of the Prospective Adoptive Parents is on record at page Nos.52-54 to the Petition.

12. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.55-72 to the Petition.

13. The Home Study Part II : Assessment Reports dated 31/01/2020 and 12/01/2023 by the Social Worker of Specialized Adoption Agency, ("Amulya (G) Shishugruha") Kalburgi, Karnataka are on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos.73-85 to the Petition.

14. The child security undertaking dated 16/09/2023 of the Prospective Adoptive father's brother and sister-in-law residing at Bengaluru to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.95-98 to the Petition.

15. The Medical Examination Report of the said female minor dated 08/07/2023 states, "Health status: Normal. Overall Observation of the child: Mahi developed seizures in the hospital, which were probably due to hypocalcaemia. She appears developmentally normal for age but needs to be closely monitored given the history of neonatal seizures". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.101-114 to the Petition.

16. As regards the change of name, the prospective adoptive parents desire that the said female minor 'Mahi' be renamed as "Mahi Vishwanath Meti".

17. The Declaration of consent, and undertaking of the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said female minor.

The said Declaration is on record at page Nos.37-38 to the Petition.

18. The Pre-adoption foster care undertaking dated 16/09/2023 is on record at page Nos.39-40 to the Petition.

19. The undertaking dated 08/02/2024 given by the Specialized Adoption Agency “Amulya (G) Shishugruha” Kalburgi, Karnataka for furnishing post adoption follow-up reports is on record at page No.123 to the Petition.

20. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 05/03/2024 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 05/03/2024 marked ‘X’, in my view, it would be in the interest of the said female minor child 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;

(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) That the Prospective Adoptive Parents be given the said child in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minor Mahi Vishwanath Meti.

(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 Mahi Vishwanath Meti born on 10/04/2023 and stating that Thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'Mahi' to Mahi Vishwanath Meti".

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

28. 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 Adopted Child's name. They also undertake not to withdraw this investment till the Adopted Child attains 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 Indian Adoption Petition is accordingly, disposed of.

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]