

Sharada

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

INDIAN ADOPTION PETITION NO. 33 OF 2024
WITH
JUDGE'S ORDER NO. 48 OF 2024

Shree Manav Seva Sangh

...Petitioner

And

Dileep Asare and Savita Asare and Yash
Dileep Asare

...Prospective
Adoptive Parents

Mrs. Sangeeta Nagpal, Advocate for the Petitioners.

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 male minor Kartik (“**the said male minor**”) born on 15/03/2023.

2. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai City-II on 27/03/2023 and the child's custody was given to the Petitioner Institution on the same day as per the order dated 27/03/2023 of the said CWC, Mumbai City II under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The Custody Order of the CWC is on record at page No.22 to the Petition.

3. After making due inquiry under Section 38 of said Act, the CWC, Mumbai City II declared the said male minor Kartik ("Legally Free for Adoption") on 29/05/2023. The Free for adoption Certificate is on record at Page No. 21 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Chhindwara, Madhya Pradesh aged about 46 years and 45 years respectively, having been married for the past 20 years (27/05/2003) with no biological children.

5. The Motivation Letter of the Proposed Adopters Parents is on record at Page No. 33 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. 106-110 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 06/10/2023 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.

8. The Health Report dated 29/06/2023 of the Prospective Adoptive Parent states “The health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway”. Their HIV test reports certify the case as Non-Reactive. These reports are on record at pages 26-33 to the Petition.

9. The Prospective Adoptive father is self-employed (owner of Durga Jewellers, Piplanarayanwar, Madhya Pradesh) and his income for the Assessment Year 2023-2024 is Rs.4,14,780. Income Certificate from Chartered Accountant and Income Tax Returns are on record at page Nos.42-54 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence (Copies of Aadhar) and Pan Card and supportive financial documents are on record at page Nos.34-36 & 58-61 to the Petition.

11. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.63-74 to the Petition.

12. The Home Study Reports Part II : Assessment Reports dated 10/12/2019 and 16-12-2023 by the Specialized Adoption Agency “Social Care Nav Jagrati Mahila Mandal”, Chhindwara, Madhya Pradesh, have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at Page Nos.75-83 to the Petition.

13. The Child Security Undertaking dated 29/09/2023 of the Prospective Adoptive father’s sister and brother and sister-in-law residing at Nagpur, Maharashtra to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos. 91-92 to the Petition.

14. The Medical Examination Report of the said male minor dated 18/08/2023 states, “Health status: Normal. Overall Observation of the child : Child is growing well and developmentally up to mark”. The Proposed Adopters have countersigned the said Report which is on record at Page Nos. 96-103 to the Petition.

15. The HIV report of the said male minor dated 30/03/2023 certifies the case as Negative. This report is on record at Page No. 104 to the Petition. The Post Card Size Photograph of the said male minor is on record at Page No.105 to the Petition.

16. As regards the change of name, the Proposed Adopters desire that the said male minor 'Kartik' be renamed as "Yash Dileep Asare".

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 28/09/2023 is on record at page Nos.39-41 to the Petition.

19. The undertaking dated 01/07/2023 of the Specialized Adoption Agency "Social Care Nav Jagrati Mahila Mandala, Chhindwara, Madhya Pradesh for furnishing post adoption follow-up reports is on record at page No.111 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 07/03/2024.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 09/03/2024 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 09/03/2024 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),

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(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."

24. Hence, it is clear that this Court can consider and dispose 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 Yash Dileep Asare 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 Yash Dileep Asare born on 15/03/2023 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 ‘Kartik’ to “Yash Dileep Asare” born on 15/03/2023.

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 Adopted Child in any Nationalized Bank. They also undertaken not to withdraw this investment till the Adopted Child attains majority. They have agreed 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.]