

Sharada

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

FOREIGN ADOPTION PETITION NO. 7 OF 2024

WITH

JUDGE'S ORDER NO. 47 OF 2024

IN

FOREIGN ADOPTION PETITION NO. 7 OF 2024

Apang And Kushtarogi Swavalamban
Sanstha , Shishu Gruha, Dhule Through
Atulchandra L. Birhade

...Petitioner

And

Richard Carl Strotz Jr. And Angela Kay Strotz
and Suresh Gerrit Strotz

...Prospective
Adoptive Parents

Mr. Rakesh Kappor i.by Mr. Rakesh K. Kapoor, 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 Foreign Adoption Petition the Prospective Adoptive

Parents, are seeking adoption of male minor Suresh (“**the said male minor**”).

2. The said male minor was born on or about 02/11/2019. He was found abandoned by R.P.F. Nandurbar on 28/11/2022 and brought before Child Welfare Committee (CWC), Nandurbar and temporarily admitted to the Children’s home, Taloda, Dist. Nandurbar. Thereafter the said male minor was transferred to the Petition institution “Shishu Gruha”, Dhule through CWC Dhule on 02/12/2022 as per the order of CWC, Nandurbar dated 02/12/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act 2015. Thereafter the Police found the maternal grandmother of the child (legal guardian) and she executed a Deed of Surrender before the CWC Nandurbar on 28/04/2023 for the child’s future rehabilitation. The Admission order and Transfer orders of the CWC are on record at page Nos.19-22 to the Petition.

3. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC Dhule declared the said male minor (“Legally Free for Adoption”) as on 02/07/2023. The Free for adoption certificate is on record at page Nos.17-18 to the Petition

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 18/01/2024 to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of the Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate can be found at Page No.29 to the Petition.

5. The Affidavit of the Authorized person of the Specialized Adoption Agency (Petitioner) in support of adoption of the said male minor is on record at pages Nos.23-28 to the Petition.

6. The Prospective Adoptive Parents are American nationals, both residing at Washington, U.S.A. aged about 43 and 39 years respectively having been married for the past 18 years (22/10/2005) with two biological daughters aged about 12 and 9 years respectively. Their birth certificates, Medical reports and consent letters are on record at page Nos.47-62 to the Petition.

7. The Motivation Letter of the Prospective Adoptive Parents is on record at page Nos.73-74 to the Petition.

8. The Proposed Adopters family Photograph and copies of Passport are on record at page Nos.30-37 to the Petition.

9. The Medical reports dated 21/03/2023 of the Prospective Adoptive Parents is on record and states that they do not suffer from any chronic, contagious or fatal disease and both are fit to adopt. Their HIV and Hepatitis B test reports certify the case as Non-Reactive These reports are at Page Nos.63-72 to the Petition.

10. The Prospective Adoptive Father is working as an Operator with Dawson Construction LLC, Bellingham, since April 2002 and his annual salary is \$ 110,000 . The Income and Employment Certificate is on record at page Nos.75-76 to the Petition.

11. The Prospective Adoptive mother is working as a Campus Coordinator with Trinity Classical School, Bellingham, USA on a full time basis since June 2021 and her yearly salary is \$ 40,000. The Income and Employment Certificate is on record at page Nos.77-79 to the Petition.

12. The US Income Tax Returns, supportive financial documents and Residence Certificate is on record at page Nos.80-103 to the Petition.

13. The Childcare Arrangement Statement from the Proposed Adopters is on record at page No.104-105 to the Petition.

14. The Home Study Report dated 16-10-2023 by the authorities of “Agape Adoptions” Washington, U.S.A. is on record and the report has found the Proposed Adopters suitable for adopting a minor child between the age group of 2-5 years. This report is at page Nos.106-124 to the Petition.

15. The Psychological Evaluation Report of the Prospective Adoptive Parents dated 18/03/2022 by the authorities of Crestview Psychological Services, P.S. is on record, and the reports states that the Prospective Adoptive Parents are in good mental health and prepared to take on the responsibility of adopting the said male minor. The said report can be found at page Nos.125-134 to the Petition.

16. The Permission of the Receiving Country as per Article 5/17 of the Hague Adoption Convention is on record at page Nos.135-136 to the Petition.

17. The Child Security Undertaking dated 05/11/2022 given by the Prospective Adoptive Mother’s sister and brother-in-law, residing at USA to take care of the said male minor child in case of any unforeseen mishap to the Prospective Adoptive Parents is on record at page Nos.151-152 to the petition.

18. The Medical Examination report of the said male minor dated 11/03/2023 states “Health Status: Special Need. The child is HIV Positive”. The Prospective Adoptive Parents have countersigned this report, which is at page Nos.157-179 to the Petition.

19. The Declaration of willingness and undertaking of the Proposed Adopters is on record and it states that they are willing to adopt the said male minor child. They further undertake that they will allow personal visits by the representative of the Authorized Foreign Adoption Agency for follow up of the progress of the child as required under the Adoption Regulation. This Declaration is at page Nos.1185-188 to the Petition.

20. The undertaking dated 18/08/2023 of the Authorized Foreign Adoption Agency (AFAA) “ America World Adoption”, Virginia, U.S.A. to provide follow-up reports of the said male minor and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos.189-191 to the Petition.

21. The copy of Power of Attorney dated 11/09/2023 duly executed by the Proposed Adopters in favour the Petitioner institution is on record at page Nos.192-193 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 05/07/2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 27/02/2024 which is taken on record and marked 'X' for identification.

24. Having considered the material on record as well as the Report of the Scrutiny Officer 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.

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 :

“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 (e) of the Petition, which read thus:-

“(a) For the Adoption of the proposed male minor Suresh Gerrit Strotz, born on 02/11/2019 by the Proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the male minor Suresh Gerrit Strotz and having all parental rights, privileges and responsibilities over the said minor now in the care and custody of the Petitioner institution Apang & Kushtarogi Swavalamban Sanstha, Shishu Gruha, Dhule, Maharashtra.

(c) That the proposed adopters be allowed to change the name of the said minor ‘Suresh’ to “Suresh Gerrit Strotz”.

(d) Leave / permission be granted to amply the concern Municipal Authorities to issue Birth Certificate of the said minor Suresh Gerrit Strotz, bon on 02/11/2019 and stating thereon that the Proposed Adopters are Parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said minor Suresh Gerrit Strotz from the

jurisdiction of this Hon'ble Court and to take the said minor to U.S.A. or wherever they may reside in future".

28. It is directed that the Petitioner institution will obtain further undertakings from the Adoptive Parents that they shall not give the Adopted Child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.`

29. The Judge's Order is also separately signed.

30. The present Foreign Adoption Petition is accordingly, disposed of.

31. There shall be no orders as to costs.

[R.I. CHAGLA, J.]