

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. 43 OF 2024
WITH
JUDGE'S ORDER NO. 65 OF 2024

Vatsalya Trust

...Petitioner

And

Mr. Kailas Pralhad Sapkal and
Mrs. Sharda Kailas Sapkal

...Prospective
Adoptive Parents

Sangeeta A Nagpal for the Petitioner.
O. Hareendran, Scrutiny Officer present.
D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 24 April 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Sonu (“**the said male minor**”) born on or about 25th April 2018. The said male minor was found abandoned by the Malvani Police Station,

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Mumbai on 31st August 2021 and admitted to Samajik Vikas Kendra, Borivali, Mumbai on the same day for immediate care and protection. On 25th April 2022, the said male minor was produced before the Child Welfare Committee(CWC), Mumbai Suburban District and the child's custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 25th April 2022 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. 105 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, District Mumbai declared the said male minor "Legally Free for Adoption" on 27th July 2023. The Free for adoption Certificate is on record at page Nos. 102-103 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Satara, Maharashtra aged about 53 years and 48 years respectively, having been married for the past 26 years (3rd February 1998) with no biological children.

4. The Motivation Letter of the proposed Adopters is on

record at page No. 83 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 22nd November 2023 is on record at page No. 99 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

7. The Medical Report of the Prospective Adoptive Parents dated 2nd November 2023. It states that they do not suffer from any contagious or fatal disease and fit to adopt a child. Their HIV and HBsAgh test Reports certify the case as Non-Reactive. The said Reports are on record at page Nos. 32-35 to the Petition.

8. The Prospective Adoptive father is working as an Assistant Manager with Dhanashree Industries, Satara since 2003 and his monthly (January-2024) gross salary is Rs. 41,327/-. His Employment Certificate, pay slip and Form No. 16 are on record at

page Nos. 37-48 to the Petition.

9. The Prospective Adoptive Mother is a Homemaker.

10. The copies of PAN card, Proof of Residence and supportive financial documents are on record at page Nos. 24, 26, 36 and 49-50 to the Petition.

11. The Home study Report Part I : Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 51-60 and 66-75 to the Petition.

12. The Home Study Report Part II : Assessment Reports dated 26th February 2018 and 5th August 2021 of the Specialized Adoption Agency “Dronagiri Shikshan Sanatha’s Shishugreh”, Satara, Maharashtra is on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home study Reports are at page Nos. 61-65 and 76-82 to the Petition.

13. The child security undertaking dated 24th

November 2023 given by the Prospective Adoptive Father's sister and brother-in-law residing at Satara, Maharashtra to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 85-86 to the Petition.

14. The Pre-adoption foster care undertaking dated 24th November 2023 is on record at page Nos. 107-109 to the Petition.

15. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor Sonu. The said declaration is on record at page Nos. 110-112 to the Petition.

16. The Medical Examination Report of the said male minor dated 18th October 2023 states, "Health status of the child: Normal child. Overall Observation of the child: Up to now his overall development is within normal limits." The Proposed Adopters have countersigned the said Report which is on record at page Nos. 90-97 to the Petition.

17. The HIV Report of the said male minor dated 28th April 2022 certifies the case as Negative. The said Report is on record at page No.98 to the Petition.

18. The post card size photograph of the said male minor is on record at page No.112-a to the Petition.

19. As regards the change of name, the Proposed Adopters desire that the said male minor 'Sonu' be renamed as "Mayur Kailas Sapkal".

20. The undertaking dated 17th November 2023 given by the authorities of the Specialized Adoption Agency "Dronagiri Shikshan Sanatha's Shishugreh", Satara, Maharashtra for furnishing post adoption follow-up Reports is on record at page No. 118 to the Petition.

21. The Petitioner Institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 5th July 2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 22nd April 2024, which is taken on record and marked “X” for identification.

23. 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 proposed Adopters.

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:

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

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

*“(a) For adoption of the Proposed minor **SONU @ MAYUR KAILAS SAPKAL** born on **25th April 2018** by the Proposed Adopters under Juvenile Justice Act.*

*(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor **MAYUR KAILAS SAPKAL**.*

*(c) That the Proposed Adopters be granted permission to change the name of minor **SONU** to **MAYUR KAILAS SAPKAL**.*

*(d) That the concerned Municipal Authority/Birth Certificate Issuing Authority may be directed to issue Birth Certificate in the name of the said minor **MAYUR KAILAS SAPKAL** born on 25th April 2018 and stating thereon that the Prospective Adoptive Parent as the Parents of the said minor.*

(e) 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.”

27. There is an undertaking in the Judge's Order that Adoptive Parents will invest a sum of Rs. 1,00,000/- (Rupees One Lakh only) in the name of the Adopted Child. They also undertake not to withdraw these investments until the Adopted child attains majority. They agree to handover investment receipts to the Adopted child on his becoming a major. These undertakings are accepted as undertakings to this Court.

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

29. The present Indian Adoption Petition is accordingly, disposed of.

30. There shall be no order as to costs.

[R.I. CHAGLA J.]

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