

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. 38 OF 2024
WITH
JUDGE'S ORDER NO. 54 OF 2024

St. Catherine's Home, Mumbai

...Petitioner

And

Mr. Rajendran Ramdas and
Mrs. Mahalakshmi Rajendran

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i/by M/s. Rakesh K.L. Kapoor and Company for
the Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 27 March 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Purva (“**the said female minor**”), born on or about 18th November 2022. The said female minor was found abandoned by

SHARAYU
PANDURANG
KHOT

Digitally
signed by
SHARAYU
PANDURANG
KHOT
Date:
2024.04.06
11:08:13
+0530

MHB Colony Police Station, Borivali West, Mumbai on 20th November 2022 and produced before the Child Welfare Committee (CWC), Mumbai Suburban-II on 23rd November 2022 and the child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 23rd November 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. 22 to the Petition.

2. After making due inquiry under section 38 of the said Act, the CWC, Mumbai Suburban-II declared the said female minor "Legally Free for Adoption" on 15th September 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 Bengaluru, Karnataka, aged about 46 and 41 years respectively. They have been married for the past 15 years (29th June 2008) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 35 to the Petition.

5. The Minutes of Adoption Committee Meeting held on 10th November 2023 is on record at page Nos. 19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

6. 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. 114-118 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 30th October 2023 states that both are physically, mentally healthy. Their HIV I & II and Hepatitis B test Reports certify the case as Non-reactive. These Reports are on record at page Nos. 26-35 to the Petition.

8. The Prospective Adoptive Father is working as a Manager-Operations with Eat Repeat India Pvt. Ltd., Bengaluru since 11th May 2023 and his monthly (December-2023) gross salary is Rs. 58,891/-. His Employment Certificate, pay slips and Income Tax Returns are on record at page Nos. 43-51 to the Petition.

9. The Prospective Adoptive Mother is working as a Deputy Manager with Integrated Insurance Broking Services Pvt. Ltd., Bangalore since 17th May 2004 and her monthly (December-2023) gross salary is Rs. 73,490/-. Her pay slips and Form No. 16 and Income Tax Returns are on record at page Nos. 52-65 to the Petition.

10. The Proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos. 36-38 and 66-73 to the Petition.

11. The Childcare Arrangement Plan Undertaking of the Prospective Adoptive Mother and her mother are on record at page No. 74-76 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 77-84 to the Petition.

13. The Home Study Report Part II: Assessment Reports dated 3rd October 2019 and 7th October 2022 of the social worker of Specialized Adoption Agency, “Mathruchhaya” Canara

Bank Relief & Welfare Society, Bengaluru is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. This Report is at page Nos. 85-87 to the Petition.

14. The child security undertaking dated 30th October 2023 given by the Prospective Adoptive Father's brother and sister-in-law residing at Sion, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 95-97 to the Petition.

15. The Medical Examination Report of the said female minor dated 3rd October 2023 states, 'Health Status: Normal. Overall observation of the child: Purva is growing well for her age". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos. 101-110 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Purva' be renamed as "Aarushi Rajendran".

17. The HIV test Report of the said female minor dated 2nd January 2023 certifies the case as Negative. This report is on record at page No. 112 to the Petition.

18. The Post Card Size Photograph of the said female minor is at page No. 113 to the Petition.

19. 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 female minor. This Declaration is at page No. 39-40 to the Petition.

20. The Pre-adoption foster care undertaking dated 26th October 2023 is on record at page No. 41-42 to the Petition.

21. The undertaking dated 7th November 2023 given by the authorities of “Mathruchhaya” Canara Bank Relief & Welfare Society, Bengaluru for furnishing post adoption follow-up Report is on record at page No. 119 to the Petition.

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

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 15th March 2024, which is taken on record and marked "X" for identification.

24. 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 female minor, if she is adopted by the Proposed Adopters.

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 :

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

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

*“(a) That the Prospective Adoptive Parents be given the said child **Aarushi Rajendran** 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 **Aarushi Rajendran** 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 **Aarushi Rajendran** born on 18/11/2022 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 ‘**Purva**’ to “**Aarushi Rajendran**”.*

28. There is an undertaking in the Judge's Order that the Adoptive Parents will create a fixed deposit for an amount of Rs. 1,00,000/- (Rupees One Lakhs only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive Parents has agreed to handover investment receipts to the Adopted child on her becoming a major. These undertakings are accepted as undertakings to this Court.

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

30. The Indian Adoption Petition is accordingly, disposed of.

31. There shall be no order as to costs.

[R.I. CHAGLA J.]

Privacy Warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.