

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

INDIAN ADOPTION PETITION NO. 39 OF 2024

WITH

JUDGE'S ORDER NO. 56 OF 2024

IN

INDIAN ADOPTION PETITION NO. 39 OF 2024**

St. Catherine's Home

.. Petitioner

Versus

Praveen Mani Vaidhyar and

Sreevidya Praveen Vaidhyar And

Atharv P. Vaidhyar (Male)

.. Prospective

Adoptive Parents

...

Mr. Rakesh Kapoor i/b M/S. Rakesh K. L. Kapoor & Co. for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare present.

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

...

CORAM : R.I. CHAGLA J

DATE : 10 APRIL 2024

MANE
SONALI
DILIP

Digitally signed by
MANE SONALI DILIP
Date: 2024.04.20
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ORDER :

1) By this Indian Adoption Petition which has been jointly filed by the Petitioner and the Prospective Adoptive Parents adoption of the male minor Jihan ("**the said male minor**") born on 29 June 2023 has been sought the birth mother surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District-II on 7 July 2020 and the child's custody was given to the Petitioner institution on the same day as per Order of the said CWC Mumbai Suburban District-II, dated 10 July 2022 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. 22 to the Petition.

2) After making due enquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai Suburban-II declared the said male minor Jihan "Legally Free for Adoption" on 20 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 40 and 38 years respectively. They have been married for the past 6 years (4 June 2017) with no biological children.

- 4) The motivation letter from the Prospective Adoptive Parents is on record at page No.32 to the Petition.
- 5) The Minutes of Adoption Committee Meeting held on 10 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 male minor.
- 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. 142-146 to the Petition.
- 7) The Medical Report of the Prospective Adoptive Parents dated 21 October 2023 is on record and it states that both are fit for adoption. Their HIV I and II and Hepatitis B tests reports certify the case as Negative. These reports are on record at page Nos.26-31 to the Petition.
- 8) The Prospective Adoptive Father is working as Manager-Development with Craft Silicon Pvt. Ltd. (CSPL), Bengaluru since September, 2023 and his monthly (November 2023) gross salary is Rs.2,02,083/-. The Income Affidavit, Pay Slips and Income Tax Returns are on record at page Nos.40-89 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9) The proof of residence, copies of Adhar and Pan Cards and other supportive financial documents are on record at page Nos. 33-35 and 90-91 to the Petition.

10) The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents is on record at page Nos.92-99 and 104-111 to the Petition.

11) The Home Study Report Part II : Assessment reports dated 18 February 2020 and 2 February 2023 of the social worker of Specialized Adoption Agency, "Amulya (G) Shishu Greh" C/o. Government Shishu Mandira, Bengaluru 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. 100-103 and 112-115 to the Petition.

12) The Child Security Undertaking dated 22 October 2022 given by the Prospective Adoptive Mother's brother and sister-in-law residing at Bhopal, Madhya Pradesh to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.125-126 to the Petition.

13) The Medical Examination Report of the said male minor dated 3 October 2023 is on record at Page Nos.130-138 to the Petition. It states "Health Status: Normal. Overall observation of the child: Jihan is growing well for his age." The Prospective Adoptive Parents have countersigned the Medical Examination Report.

14) The HIV test report of the said male minor dated 12 July 2023 certifies the case as Negative. The said report which is on record at page No.140 to the Petition.

15) The Post Card Size Photograph of the said male minor is on record at page No.141 to the Petition.

16) As regards the change of name, the Adoptive Parents desire that the said male minor 'Jihan' be renamed as "Atharv Praveen Vaidhyar".

17) The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor Jihan. This Declaration is on record at page Nos. 36-37 to the Petition.

18) The Pre-adoption foster care undertaking dated 25 October 2023 is on record at page Nos.38-39 to the Petition.

19) The undertaking dated 21 October 2023 given by the authorities of "Amulya (G) Shishu Greh" C/o. Government Shishu Mandira, Bengaluru for furnishing post adoption follow-up reports is on record at page No.147 to the Petition.

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

21) Mr. O. Hareendran, Scrutiny Officer has tendered a Record/Representation of Indian Council of Social Welfare dated 20 March 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 marked 'X', I am of the view that it would be in the interest of the said male minor child that he is adopted by the Proposed Adopters.

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), (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

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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 reads thus:

*(a) That the Prospective Adoptive Parents be given the said child **Atharv Praveen Vaidhyar** 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 **Atharv Praveen Vaidhyar** 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 **Atharv Praveen Vaidhyar**, born on 29/6/2023 and stating thereon that the Prospective Adoptive Parents are the Parents of Parents of the said minor.*

*(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from '**Jihan**' to '**Atharv Praveen Vaidhyar**'.*

26) There is an undertaking of the Adoptive Parents in the Judge's Order to invest a sum of Rs.1,00,000/- (Rupees One Lakh Only) in the name of the Adopted Child. They further undertake not to withdraw this investment till the adopted child attains majority. The Adoptive Parents have agreed to handover the investment receipts to the Adopted Child, upon his becoming major. These undertakings are accepted as undertakings to this Court.

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

28) The present Indian Adoption Petition is accordingly disposed of.

29) There shall be no orders as to costs.

[R. I. CHAGLA J.]

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