

Sharada

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

SHARADA
RANGNATH
WAHULE

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FOREIGN ADOPTION PETITION NO. 8 OF 2024

WITH

JUDGE'S ORDER NO. 62 OF 2024

IN

FOREIGN ADOPTION PETITION NO. 8 OF 2024

Bal Asha Trust Th. Sunil Kumar Arora, ...Petitioner
Executive Director

And

Robert Glenn Staggs and Ida Linnea Staggs ...Prospective
and Kanika Staggs (Minor) Adoptive Parents

Mr. Rakesh Kapoor 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 : 23 APRIL 2024

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the
Proposed Adopters have sought adoption of female minor Kanika

(“**the said female minor**”) born on 13/07/2022.

2. The said female minor was found abandoned by Bhoiwada Police Station, Mumbai, on 30/08/2022 and produced before the Child Welfare Committee (CWC), Mumbai City-II and admitted to the petitioner institution (“Bal Asha Trust”), Mumbai on the same day. On 01/09/2022 the CWC, through its order recognized the admission 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 Nos.19 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said female minor Kanika “Legally Free for Adoption” as on 13/03/2023. The Free for adoption Certificate is on record at page Nos.17 to 18 to the Petition.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 23/01/2024 to this adoption as per Adoption Regulations 2022 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.26 to the Petition.

5. The undertaking / affidavit by the Petitioner institution is on record at

page Nos.20-25 to the Petition.

6. The Proposed Adoptive Parents are Swedish Nationals residing at Varnamo, Sweden aged about 43 and 42 years respectively having been married for the past 21 years (02/11/2002) with no biological children. However, they have one adopted son aged about 6 years from India. His Birth Certificate, Medical Report and Consent Letter are on record at page Nos.33-35 to the Petition.

7. The Proposed Adopters' Joint Family Photograph, Copies of Passport are on record at page Nos.27-29 to the Petition.

8. The Medical reports dated 25/08/2022 of the Prospective Adoptive Parents have found no evidence of any symptoms of disease. Their HIV and Hepatitis B Test Reports certify the case as Negative. These reports are on record at Page Nos.36-38 to the Petition.

9. The Prospective Adoptive Father is working as an Engineer with Bors Press AB, Sweden and his annual salary for the year 2023 was SEK 227,140 equal to 21,589 USD. His Income and Employment Certificate is on record at page No.39 to the Petition.

10. The Prospective Adoptive mother is working in the Finance Department of Axelent Engineering since 1/4/2012 and her annual salary (2023) was SEK 480,000 equal to 45,950 USD. Her employment and Salary Certificate is on record at page No.40 to the Petition.

11. The Income Tax Returns, Bank References and Residence Certificate are on record at page Nos.41-57 to the Petition.

12. The Childcare Arrangements statement from the Proposed Adopters is on record at page No.58 to the Petition.

13. The Home Study Report dated 13/06/2022 by the authorities of “Municipality of Varnamo”, Sweden has found the Prospective Adoptive Parents suitable to adopt a child. The said Home Study Report is on record at page Nos.59-76 to the Petition.

14. The Psychological Evaluation Report of the Prospective Adoptive Parents dated 25/08/2022 by the Licensed Psychologist has found the couple suitable do adopt a child from India. The said Report is on record at page No.77 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Adoption Convention is on record at page Nos.78-80 to the

Petition.

16. The Child Security Undertaking dated 27/02/2024 by the Prospective Adoptive Mother's sister and brother-in-law, residing at Varnamo, Sweden to look after the said female minor in case of any mishap to the Proposed Adopters is on record at page No.88 to the petition.

17. The Medical Examination report of the said female minor dated 12/09/2023 states "Health Status:Special Need. Overall observation of the child: Kanika is a pre-term baby born at 31 weeks of gestational age weighing 1.1kg needing an NICU stay for 1½ months. In view of a history of Tuberculosis contact, she was given INH Prophylaxis. After ruling out TB, Tab Isoniazid 15mg once daily, continued till 6 months from age. She has grown well in the institution and has not suffered any major illness needing hospitalization." The Proposed Adopters have countersigned this Report, which is on record at page Nos.91-113 to the Petition.

18. The H.I.V. Report of the said female minor dated 23/08/2023 certifies the case as Non Reactive. This report is on record at page No.116 to the Petition. The Post Card Size Photograph

of the said female minor is on record at page No.115 to the Petition

19. As regards the change of name, the Proposed Adopters desire that the said female minor 'Kanika' be renamed as "Kanika Staggs".

20. The child approval letter and undertaking of the Prospective Adoptive Parent state that they are willing to adopt the said female minor. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency (AFAA) during post-adoption follow up. The said declaration is on record at page No.116-118 to the Petition.

21. The Undertaking dated 11/10/2023 by the Authorized Foreign Adoption Agency (AFAA) "Children Above All-Adoptions" Sweden to provide follow-up reports of the said female minor and make alternative arrangements in case of disruption of the adoptive family is on record at page No.119 to the Petition.

22. The Power of Attorney dated 17/10/2023 duly executed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at page Nos.120-123 to the Petition.

23. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 02/04/2024 which is taken on record and marked 'X' for identification.

25. 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 female minor if she is adopted by the Proposed Adoptive Parents.

26. 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."*

27. Hence, it is clear that this Court can consider and dispose of

the present Petition.

28. 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 minor Kanika Staggs born on 13/07/2022 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 said minor Kanika Staggs and having all parental rights, privileges and responsibilities over the said minor now in the care and custody Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr, E. Moses Road, Mahalaxmi, Mumbai – 400 011.

(c) That the proposed adopters be allowed to change the name of the minor ‘Kanika’ to “Kanika Staggs”.

(d) Leave/ permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Kanika Staggs born on 13/07/2022 and showing the proposed adopters as Parents.

(e) That the Proposed Adopters may be granted leave to remove the said minor Kanika Staggs from the jurisdiction of this Hon’ble Court and to take the said minor to SWEDEN or wherever they may reside in future”.

29. It is directed that the Petitioner institution will obtain further undertaking 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.

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

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

32. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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