

Sharada

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

INDIAN ADOPTION PETITION NO. 48 OF 2024

WITH

JUDGE'S ORDER NO. 71 OF 2024

IN

INDIAN ADOPTION PETITION NO. 48 OF 2024

Vatsalya Trust Th. Its Authorised Signatory /
Convener Nanda Sangode

...Petitioner

And

Joshua Kenneth George and Priyanka Anna ...Prospective
George and Samaira Anna George (F. Minor) Adoptive Parents

Ms. Aarti Kulkarni, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

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

CORAM : R.I. CHAGLA, J.

DATE : 30 APRIL 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Smruti (**“the said female minor”**) born on 17/10/2022. The biological parent surrendered the said female minor before the Child Welfare Committee CWC, Mumbai Suburban District on 18/10/2022 and she was admitted to the Petitioner Institution on the same day as per the order of the CWC on 20/10/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (**“the said Act”**). The CWC Admission order is on record at page No.21 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District declared the said female minor Smruti (**“Legally Free for Adoption”**) on 24/01/2023. The Free for adoption Certificate is on record at Page Nos.23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals presently residing at Bengaluru, both aged about 38 years, having been married for the past 13 years (27/10/2010) with three biological children viz. a daughter aged about 10 years and two sons

aged about 12 and 5 years respectively. Their Birth Certificates and consent letters and Medical Certificates are on record at page Nos.28-32 to the Petition.

4. The Motivation Letter of the Prospective Adoptive Parents is on record at page No.39 to the Petition.

5. 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.144-148 to the Petition.

6. The Minutes of Adoption Committee meetings held on 31/01/2024 are on record at page No.20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 18/12/2023 states that, "They do not suffer from any chronic, contagious or fatal disease and are fit to adopt" Their HIV and HbsAg Test Reports certify their case as Non-Reactive. These reports are on record at page Nos.33-38 to the Petition.

8. The Prospective Adoptive Father is working as a Professor

at South Asia Institute of Advanced Christian Studies, Bengaluru since April, 2017 and his gross salary is Rs.41,337/-. The Income Tax Returns and Salary Certificate are on record at page Nos.50-78 to the Petition.

9. The Prospective Adoptive Mother is working as a Head of Content Development with Cubesss Mentoring Service Pvt. Ltd., Bengaluru Since 1st July, 2023 and her gross monthly salary is Rs.50,000/-. The Income Tax Returns and Letter of Confirmation of Employment are on record at page Nos.79-80 to the Petition.

10. The copies of Pan Card, Proof of residence and supportive financial documents are on record at page Nos.40-43 & 81-107 to the Petition.

11. The childcare arrangement plan undertaking of the Prospective Adoptive Mother is on record at page Nos.108-116 to the Petition.

12. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.108-116 to the Petition.

13. The Home Study Part II : Assessment Reports dated

07/01/2024 by the Specialized Adoption Agency “Shishu Mandir Children’s Home”, Bengaluru have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.117-121 to the Petition.

14. The child security undertaking dated 31/01/2024 of the Prospective Adoptive Father’s sister and brother-in-law residing at Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.127-130 to the Petition.

15. The Pre-adoption foster care undertaking dated 29/01/2024 is on record at page Nos.46-49 to the Petition.

16. The Medical Examination Report of the said female minor dated 27/12/2023 states, “Health status of the child: Special need. She had persistence indirect hyperbilirubinemia. Overall Observation of the child: Up to now, her overall development is below normal limits. Child has developmental delay in physical and mental development”. The Proposed Adopters have countersigned the Medical Examination Report which is on record at page Nos.134-140 to the Petition.

17. The HIV report of the said female minor dated

20/102/2022 certifies the case as Negative. This report is on record at page No. 142 to the Petition. The Photograph of the said female minor is on record at page No.143 to the Petition.

18. The Declaration of consent, and undertaking of the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said female minor. The said Declaration is on record at page Nos.44-45 to the Petition.

19. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Smruti' be renamed as "Samaira Anna George".

20. The undertaking dated 24/01/2024 given by the authorities of "Shishu Mandir Children's Home", Bengaluru for furnishing post adoption follow-up reports is on record at page No.155 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 05/07/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 17/04/2024 which is taken on record and marked 'X' for

identification.

23. Having considered the material on record as well as the Report of the Scrutiny Officer dated 17/04/2024 marked 'X', in my view, it would be in the interest of the said female minor child that she is adopted by the Proposed Adoptive Parents.

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:

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

“(a) That the Prospective Adoptive Parents be given the said child in Adoption be declared as parents and have 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 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 Samaira Anna George born on 17/10/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Smruti to "Samaira Anna George" born on 17/10/2022.

27. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the Adopted Child's name. The Adoptive Parents also undertake not to withdraw this investment till the Adopted Child attains majority. The Adoptive Parents agree to handover the investment receipt to the Adopted Child on her becoming a major. These undertakings are accepted as undertaking to this Court.

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

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

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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