

Sharada

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

INDIAN ADOPTION PETITION NO. 45 OF 2024

WITH

JUDGE'S ORDER NO. 67 OF 2024

IN

INDIAN ADOPTION PETITION NO. 45 OF 2024

Bal Asha Trust

...Petitioner

And

Prashant Ajit Pingulkar and Anita P.
Pingulkar and Yutika P. Pingulkar (F. Minor)

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i.by Kapoor and co., Advocate for the Petitioner.

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

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

Mr. Prashant Ajit Pingulkar - Prospective Adoptive Father.

Ms. Anita P. Pingulkar – Prospective Adoptive Mother along with
Yutika P. Pingulkar – Minor present.

CORAM : R.I. CHAGLA, J.

DATE : 23 APRIL 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Durva (“**the said female minor**”) born on 30/09/2023. The biological parent surrendered the said female minor before the CWC, Mumbai City-II on 10/10/2023 and the child’s safe custody was given to the Petitioner Institution on the same day as per the order of the CWC on 10/10/2023 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.25 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai II declared the said female minor Durva (“Legally Free for Adoption”) on 04/01/2024. The Free for adoption Certificate is on record at Page Nos.23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Grant Road, Mumbai, both aged about 44 years, having been married for the past 13 years (07/06/2011) with no biological children.

4. The Motivation Letter of the Prospective Adoptive Parents is

on record at page No.32 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.107-111 to the Petition.

6. The Minutes of Adoption Committee meetings held on 01/02/2024 and 07/02/2024 are on record at page Nos. 19-22 to the Petition. They state that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Health Report of the Prospective Adoptive Parents dated 28/08/2023 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 the case as Negative. These reports can be found at page Nos.27-32 to the Petition.

8. The Prospective Adoptive Father is working with Krishna Sales Agency’s Printing Department for the last two years and his monthly gross salary is Rs.25,000/-. His Salary Certificate and Income Tax Returns are on record at page Nos.39-46 to the Petition.

9. The Prospective Adoptive Mother is working as a Data

Entry Operator with National Insurance Co. Ltd., Dadar Division and her monthly gross salary is Rs.15,000/-. Her Employment and Income Certificate is on record at page Nos.47 to the Petition.

9. Proof of residence, Pan Card copies and supportive financial documents are on record at page Nos.33-35 & 48-64 to the Petition.

10. The childcare arrangement plan declarations of the Prospective Adoptive mother and her sister-in-law are on record at page No.65-68 to the Petition.

11. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.69-75 to the Petition.

12. The Home Study Part II : Assessment Reports dated 24/08/2021 by the Social Worker of the Petitioner Institution “Bal Asha Trust” Mahalaxmi, Mumbai is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.76-82 to the Petition.

13. The child security undertaking dated 08/02/2024 given by the Prospective Adoptive father’s brother and sister-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. 93-95 to the Petition.

14. The Medical Examination Report of the said female minor dated 30/12/2023 states, "Health status Normal. Overall Observation of the child: Durva is developmentally normal. She is Asymptomatic and no clinical signs of TB with normal chest X-ray and MT2TU borderline positive. Currently she has not received any medicine for tuberculosis." The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page No.106 to the Petition.

15. The HIV report of the said female minor dated 06/12/2023 certifies the case Non Reactive. This report is on record at page No. 105 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.106 to the Petition.

16. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Durva' be renamed as "Yutika Prashant Pingulkar".

17. 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 No.36 to the Petition.

18. The Pre-adoption foster care undertaking dated 08/02/2024 is on record at page Nos.37-48 to the Petition.

19. The undertaking dated 29/02/2024 given by the Adoption Agency ("Bal Asha Trust"), Mahalaxmi, Mumbai for furnishing post adoption follow-up reports is on record at page No.112 to the Petition.

20. 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.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 15/04/2024 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 dated 15/04/2024 marked 'X', in my view, it would be in the interest of the said female minor child if she is adopted by the Proposed Adoptive Parents.

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

1

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

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.”*

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 read thus:-

“(a) Tjhat the Prospective Adoptive Parents be given the said child in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilites over the said minor Yutika Prashant Pingulkar.

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minor from 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 Yutika Prashant Pingulkar born on 30/09/2023 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 'DURVA' to "Yutika Prashant Pingulkar".*

26. 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 have sought for the investment of Rs.50,000/- to be staggered over a period of six months in Sukanya Samrudhi Yogna and the balance sum of Rs.50,000/- to be invested the LIC. They undertake that this Investment will be till the Adopted Child attains majority. They have agreed to handover the investment receipts to the Adopted Child on her becoming a major. These undertakings are accepted as an undertakings to this Court.

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

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

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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