

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. 47 OF 2024

WITH

JUDGE'S ORDER NO. 70 OF 2024

IN

INDIAN ADOPTION PETITION NO. 47 OF 2024

Shraddhanand Mahilashram

...Petitioner

And

Kamlesh Hedao
Manisha Hedao

...Prospective
Adoptive Parents

Mr. R.K.L. Kapoor for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 24 April 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Piyusha (“**the said female minor**”), born on 23/03/2021. The

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said female minor was admitted to the Petitioner Institution on 31/03/2021 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 31/03/2021 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). Thereafter, the birth mother of the said female minor executed a Deed of Surrender before the said CWC, Mumbai City-I on 10/05/2021 for the child’s further rehabilitation. The Admission Order of the CWC is on record at page No. 21 to the Petition.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai City II declared the said female minor “Legally Free for Adoption” on 16/07/2021. The Free for adoption Certificate is on record at page No. 22 to the Petition.

3. The Prospective Adoptive Parents are residing at Ujjain, Madhya Pradesh aged about 48 and 44 years respectively. They have been married for the past 18 years (23/02/2006) with no biological children.

4. The motivation letter of the Prospective Adoptive Parents

is on record at page No. 31 to the Petition.

5. The 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. 113-117 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 15/12/2021 is on record at page No. 19 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Health Report dated 03/06/2023 of the Prospective Adoptive Parents states, "They are completely healthy and fit physically and mentally". Their HIV and HBsAg test Report certify their case as Non Reactive. The said Reports are at page Nos. 26-32 to the Petition.

8. The Prospective Adoptive Father is working as an Assistant Manager –Engineering with Medilux Laboratories Pvt. Ltd., Dhar, Madhya Pradesh since 25/08/2020 and his monthly (October-2023) gross salary is Rs. 1,27,687/-. His Appointment Letter, Pay slips

and Income Tax returns are on record at page Nos. 38-53 to the Petition.

9. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence and copies of PAN Card and supportive financial documents are on record at page Nos. 32-34 and 54-58 to the Petition.

11. The home study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 59-80 to the Petition.

12. The home study Report Part II: Assessment Report dated 27/11/2021 by the Social Worker of Specialized Adoption Agency “Matru Chhaya Seva Bharati”, Ujjain, Madhya Pradesh is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. This Report is at page Nos. 81-89 to the Petition.

13. The child security undertaking dated 16/12/2021

given by the Prospective Adoptive Father's cousin brother and sister-in-law residing at Nashik, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 97-100 to the Petition.

14. Medical Examination Report dated 20/11/2021 of the said female minor states "Health Status: Normal. Her mental development status: Milestones appropriate for age." The Prospective Adoptive Parents have countersigned the said Report. This Report is on record at page Nos.103-109 to the Petition.

15. The HIV Report of the said female minor dated 14/12/2023 certifies the case as Non Reactive. This Report is on record at page No. 111 to the Petition.

16. Post Card Size Photograph of the the said female minor is on record at page No. 112 to the Petition.

17. As regards the change of name, the Prospective Adoptive Parents desire that the the said female minor 'Piyusha' be renamed as "Piyusha Kamlesh Hedao".

18. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor. This Declaration is on record at page No. 35 to the Petition.

19. The Pre-adoption foster care undertaking dated 17/12/2021 is on record at page Nos. 36-37 to the Petition.

20. The Post-placement Report of the said female minor dated 28/12/2023 states that the said female minor was with the Prospective Adoptive Parents for the last two years and it is observed that she has adjusted in the family very well. The said Report is on record at page Nos. 118-A to 118-C to the Petition.

21. The undertaking dated 15/12/2021 by the Specialized Adoption Agency “Matru Chhaya Seva Bharati”, Ujjain, Madhya Pradesh for furnishing post adoption follow-up Report is on record at page No.118 to the Petition.

22. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in

adoption is valid up to 08/03/2024.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 17th April 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, that 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 :

“8. In the meantime, there will be an ad-interim order

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

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 **Piyusha Kamlesh Hedao** 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 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 **Piyusha Kamlesh Hedao** born on **23/03/2021** 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 PIYUSHA to **“Piyusha Kamlesh Hedao”.***

28. There is an undertaking in the Judge's Order that Adoptive Parents will create a fixed deposit for an amount of Rs. 1,00,000/- (Rupees One Lakh 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 have 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.]

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