

Sharada

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

FOREIGN ADOPTION PETITION NO. 11 OF 2024

WITH

JUDGE'S ORDER NO. 75 OF 2024

IN

FOREIGN ADOPTION PETITION NO. 11 OF 2024

Jeevan Asha Trusts Asha Shishugruha Th. S ...Petitioner
M Kasbekar

And

Katrien Roberthe R. Verdonckt ...Proposed
Adopter

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor & Co, 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 Foreign Adoption Petition the Petitioner and the
Proposed Adopter have sought adoption of male minor Rajgopal

(“**the said male minor**”) born on 12/11/2021.

2. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Parbhani on 13/12/2021 and the child’s safe custody was given to the petitioner institution on the same day as per the Order of the CWC dated 13/12/2021 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.18-19 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Parbhani declared the said male minor Rajgopal “Legally Free for Adoption” as on 12/03/2022. The Free for Adoption Certificate is on record at page No.17 to the Petition.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 18/03/2024 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 is on record at page No.26 to the Petition.

5. The undertaking / affidavit by the Petitioner institution is on record at page Nos.23-28 to the Petition.

6. The Prospective Adoptive Parent is a Spinster of Belgian nationality, residing at Ronse, Belgium aged about 49 years having no biological or adopted children. The Prospective Adoptive Parent's Photograph and Passport copy are on record at page Nos.27-28 to the Petition.

7. The Medical Report dated 22/09/2021 of the Prospective Adoptive Parent states "She is in good physical and mental health and does not suffer from any serious chronic, contagious or terminal illness which may impair her ability to raise a child". Her HIV and HbsAg Test Reports certify the case as Negative. These reports are on record at page Nos.32-36 to the Petition.

8. The Prospective Adoptive Parent is working as a Financial Controller with H. Hart Zorggroep, Belgium since April 2012 and her annual gross salary is Euro 64,025/-. Her Employment certificate & Pay slip are on record at page Nos.37-41 to the Petition.

9. The Tax Certificate and Residence Certificate are on record at page Nos.42-49 to the Petition.

10. The Childcare Arrangements Declaration of the Prospective Adoptive Parent is on record at page No.50 to the Petition.

11. The Home Study Report dated 22/10/2020 by the authorities of Public Prosecutions Department, Belgium and Update Report Dated 04/10/2021 of the Authorized Foreign Adoption Agency “Ray of Hope-children’s Welfare Adoption Organization”, Belgium has found the Proposed Adopter suitable for adopting a child. The said Home Study Report is on record at page Nos.51-87 to the Petition.

12. The Psychological Evaluation Report of the Prospective Adoptive parent dated 16/03/2018 by the Psychologist of Centre for Social Welfare Work Brussels have Updated Evaluation dated 13/10/2021 by the Psychologist have recommended the Prospective Adoptive Parent for the adoption of an Indian child. The said reports are on record at page Nos.88-122 to the Petition.

13. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos.123-131 to the Petition.

14. The Child Security Undertaking dated 05/07/2018 given by the Prospective Adoptive Mother’s sister residing at Belgium to look after the said female minor in case of any mishap to the Prospective Adoptive Parent is on record at page Nos.141-142 to the petition.

15. The Medical Examination Report of the said male minor dated

17 November, 2023 states “Health Status: Normal. Overall Observation of the child: Normal child”. The Prospective Adoptive Parent has countersigned this Report which is at page Nos.146-150 to the Petition.

16. The H.I.V. Report of the said male minor dated 29/01/2024 certifies the case as Non-reactive. This report is on record at page No.152 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.153 to the Petition

17. The Declaration of willingness and undertaking of the Prospective Adoptive Parents states that she is willing to adopt the said male minor. She further undertakes that she 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 Nos.154-155 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parent desires that the said male minor ‘Rajgopal’ be renamed as “Raj Gopal Verdonckt”.

19. The Undertaking dated 06/12/2023 by the Authorized Foreign Adoption Agency (AFAA) “Ray of Hope-Children’s Welfare Adoption” Lokeren, Belgium to provide follow-up reports of the said male

minor and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos.156-157 to the Petition.

20. The Power of Attorney dated 06/12/2023 duly signed by the Prospective Adoptive Parent in favour of the Petitioner institution is on record at page Nos.158-159 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 25/04/2024 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 marked 'X', in my view, it would be in the interest of the said male minor that he is adopted by the Proposed Adoptive Parent.

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

“(a) For the Adoption of the Proposed male minor Raj Gopal Verdonckt, born on 12/11/2021 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 Raj Gopal Verdonckt, having all parental rights, privileges and responsibilities over the said minor now in the care and custody of the Petitioner institution Jeevan Asha Trust’s Asha Shishugriha, Parbhani, Maharashtra.

(c) That the proposed adopters be allowed to change the name of the minor Rajgopal to “Raj Gopal Verdonckt”

(d) *Leave/permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Raj Gopal Verdonckt, born on 12/11/2021 and stating thereon that the Proposed Adopters are Parents of the said minor.*

(e) *That the Proposed Adopters may be granted leave to remove the said minor Raj Gopal Verdonckt from the jurisdiction of this Hon'ble Court and to take the said minor to Belgium or wherever they may reside in future."*

27. It is directed that the Petitioner institution will obtain further undertaking from the Adoptive Parent that she 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.

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

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

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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