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

FOREIGN ADOPTION PETITION NO. 12 OF 2024

WITH

JUDGE'S ORDER NO. 76 OF 2024

IN

FOREIGN ADOPTION PETITION NO. 12 OF 2024

**Maharashtra Sate Women's Council Adoption ...Petitioner
Group**

And

Sarbani Piya Mukherjee

**...Prospective Adoptive
Parent**

Ms. Rhea Mehta i/by Ms. Dipal Sanjanwala Mehta, Advocate for the
Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 8 May 2024

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the
Prospective Adoptive Parent have sought adoption of female minor Mira

("the said female minor") born on 15/04/2023. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai City-I on 25/04/2023 and the child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC, Mumbai City-I dated 25/04/2023 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.69 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said female minor Mira "Legally Free for Adoption" as on 28/07/2023. The Free for adoption Certificate is on record at page Nos.72-74 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 22/03/2024 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 can be found at Page No.76 to the Petition.

4. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of the said female

minor is on record at page Nos.63-68 to the Petition.

5. The Prospective Adoptive Parent is a single woman (Divorcee), American National of Indian origin aged about 40 years with no biological or adopted children. She was married earlier on 27/12/2014 and divorced on 25/08/2020. She has no issues from this marriage. The Divorce Decree is on record at page Nos.31-45 to the Petition.

6. The Motivation Letter of the Prospective Adoptive Parent is on record at page Nos.19-20 to the Petition.

7. The Prospective Adoptive Parent's Passport, OCI Card copy and Photograph are on record at page Nos.25-28 and 62 to the Petition.

8. The Medical Examination Report of the said female minor dated 12/02/2024 states "Health history: Patient does have some hypothyroidism with elevated Lpla. The Remarks on Physical Examination & Medical History: The health of the Prospective Adoptive Parent does not disqualify her in parenting a child in anyway". Her HIV and Hepatitis B test reports certify the case as Non-Reactive. These Reports, are on record at page Nos.55-59 to the Petition.

9. The Prospective Adoptive Parent is working as an Attorney/ Legal Consultant with Robert Half Inc., Chicago. She also works as a Staff

Attorney at Rush University Medical Center, Chicago, Illinois (as per home study report). Her Income/Employment Certificates and U.S. Individual Income Tax Returns 2020, 2021 and 2022 and salary slips are on record at page Nos.149-195 & 200-215 to the Petition.

10. The proof of residence and other supportive financial documents are on record at page Nos.46-52 & 196-199 to the Petition.

11. The Childcare Arrangements plan undertaking by the Prospective Adoptive Parent is on record at page Nos.222-223 to the Petition.

12. The Home Study Report dated 20/10/2023 by the authorities of “Adoption Center of Illinois” USA has found the Prospective Adoptive Parent suitable for adopting a child. The said Home Study Report is on record at page Nos.113-125 to the Petition.

14. The Psychological Evaluation Report of the Prospective Adoptive Parent dated 02/08/2023 by the Authorities of Help and Healing Center, PLLC has found the Prospective Adoptive Parent emotional and mental health suitable for raising an internationally adopted child. This Report is on record at page Nos.126-133 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.143-148 to the

Petition.

16. The Child Security Undertaking dated 17/12/2023 by the Prospective Adoptive Parent's cousin brother and sister-in-law residing at USA to take care of the child in case of any unforeseen mishap to the Prospective Adoptive Parent is on record at page Nos.224-228 to the Petition.

17. The Medical Examination Report of the said female minor dated 01/09/2023 states "Health status of the child: Special Needs. Overall observation of the child: (a) A case of Acyanotic Congenital heart Disease, which will require follow up; (b) Physical and mental development are normal for age". The Prospective Adoptive Parent has countersigned this report which is on record at page Nos.83-93 to the Petition.

18. The H.I.V. Report of the said female minor dated 14/07/2023 certifies the case as Non Reactive. This report is on record at page No.101 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.112 to the Petition

19. As regards the change of name, the Prospective Adoptive Parent desires that the said female minor 'Mira' be renamed as "Mira Rani Mukherjee".

20. The Declaration of consent and undertaking of the Prospective Adoptive Parent states that she is willing to adopt the said female minor. She further undertakes that she will allow personal visits by the representatives of the Authorized Foreign Adoption Agency (AFAA) or the Concerned Government Department for follow up of the progress of the child as required under the Adoption Regulations. The said declaration / undertaking is on record at page Nos.241-246 to the Petition.

21. The Undertaking dated 05/02/2023 by the Authorized Foreign Adoption Agency (AFAA) "International Adoption Net", Texas, U.S.A. for furnishing post adoption 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 Nos.238-240 to the Petition.

22. The copy of General Power of Attorney dated 07/03/20224 duly executed by the Prospective Adoptive Parent in favour of the Petitioner institution is on record at page Nos.247-250 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

03/05/2024 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 that she is adopted by the Proposed Adopter.

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

1

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

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

"(a) This Hon'ble Court may be pleased to appoint the proposed adoptive parent Sarbani Piya Mukherjee as the parent/mother of the female minor, Mira now in the care of the Maharashtra State Women's Council Adoption Group, Asha Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009,

(b) That the proposed adoptive parent be allowed to change the name of the minor, from 'Mira' to "Mira Rani Mukherjee"

(c) *that the proposed adoptive parent may be granted leave to remove the aforesaid child, Mira @ Mira Rani Mukherjee from the jurisdiction of this Hon'ble Court and to take the minor out of India along with her, to her home i.e whenever she may require her to,*

(d) *That the Petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth Certificate of female minor 'Mira Rani Mukherjee' showing the name of the proposed adoptive parent / mother, Sarbani Piya Mukherjee as her parent,*

(e) *That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor 'Mira Rani Mukherjee' within five working days from the date of application of the Petitioner, as per the provisions of sub-regulation 15 of the Adoption Regulations 18 and regulation 36,*

(f) *The concerned Regional Passport Office may be directed to issue Passport for the said 'Mira Rani Mukherjee' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38",*

29. It is directed that the Petitioner institution shall obtain a 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.

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

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

32. There shall be no order as to costs.

[R.I. CHAGLA, J.]

Privacy warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.