

Sharada

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

INDIAN ADOPTION PETITION NO. 54 OF 2024

WITH

JUDGE'S ORDER NO. 80 OF 2024

IN

INDIAN ADOPTION PETITION NO. 54 OF 2024

St. Catherine's Home

...Petitioner

And

Alok Kulkarni and Sangita Kulkarni

...Prospective
Adoptive Parents

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 : 8 May 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the

Prospective Adoptive Parents have sought adoption of the female minor Ashwini (“**the said female minor**”) born on 17/03/2020. The said female minor was found abandoned by the Bandra Police Station on 17/03/2022 and produced before the Child Welfare Committee (CWC), Mumbai Suburban District-II and the child’s safe custody was given to the Petitioner Institution on the same day as per the order of the CWC on 17/03/2022 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.22 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District-II declared the said female minor Ashwini “Legally Free for Adoption” on 07/10/2022. The Free for adoption Certificate is on record at Page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Jabalpur, Madhya Pradesh, aged about 50 and 47 years, having been married for the past 13 years (24/07/2010) with one biological son aged about 12 years. The biological son’s Birth Certificate, Medical Report and consent letter are on record at page Nos.26-28 to the Petition.

4. The Motivation Letter of the Prospective Adoptive Parents is on record at page No.33 to the Petition.
5. The Minutes of Adoption Committee meeting held on 22/08/2023 is on record at page Nos.19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.
6. 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.91-95 to the Petition.
7. The Medical Report of the Prospective Adoptive Parents dated 18/08/2023 states that, "Both are fit for adoption". Their HIV I & II and Hepatitis B Test Reports certify their case as Non Reactive. These reports are on record at page Nos.29-32 to the Petition.
8. The Prospective Adoptive Father is working as a Senior Technician with Indian Institute of Information Technology Design & Manufacturing, Jabalpur since October 2006 and his monthly (February-2024) gross salary is Rs.87,908/-. His Salary slips are on record at page Nos.42-43 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents are on record at page Nos.34-36 & 44-54 to the Petition.

10. The childcare arrangement plan undertaking of the Prospective Adoptive Mother is on record at page No.55 to the Petition.

11. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.56-62 to the Petition.

12. The Home Study Part II : Assessment Reports dated 27/01/2023 by the social worker of Specialized Adoption Agency. “Matrachhaya Sewabharti” Jablpur, have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.63-67 to the Petition.

13. The child security undertaking dated 22/08/2023 of the Prospective Adoptive Father’s sister and brother-in-law residing at Nagpur, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.75-76 to the Petition.

14. The Medical Examination Report of the said female minor dated 23/08/2023 states, “ Health Status: Normal. Overall observation of the child: Ashwini is a happy child”. The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page No.89 to the Petition.

15. The HIV report of the said female minor dated 22/03/2022 certifies the case as Negative. This report is on record at page No. 89 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.90 to the Petition.

16. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor ‘Ashwini’ be renamed as “Ruhanika Alok Kulkarni”.

17. The Declaration of consent, willingness and undertaking by 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.37-38 to the Petition.

18. The Pre-adoption foster care undertaking dated 22/08/2023 is on record at page Nos.39-41 to the Petition.

19. The undertaking dated 10/09/2023 given by the authorities of “Matrachhaya Sewabharti”, Jabalpur, Madhya Pradesh for

furnishing post adoption follow-up reports is on record at page No.96 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 02/05/2024 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 02/05/2024 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.

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 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) That the Prospective Adoptive Parents be given the said child Ruhanika Alok Kulkarni 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 Ruhanika Alok Kulkarni 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 Ruhanika Alok Kulkarni, born on 17/03/2020 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from ‘Ashwini’ to “Ruhanika Alok Kulkarni”.

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 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.

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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