

Nikita

NIKITA
KAILAS
DARADE
Digitally signed by
NIKITA KAILAS
DARADE
Date: 2024.03.01
17:08:58 +0530

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

**INDIAN ADOPTION PETITION NO.28 OF 2024
WITH
JUDGE'S ORDER NO. 41 OF 2024**

Vatsalya Trust Mumbai

...Petitioner

And

**1. Dilip Dunduji Khandagde
2. Pramila Dilip Khandagde**

**...Prospective
Adoptive
Parents**

Ms. Sangeeta A. Nagpal for the Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : FEBRUARY 28, 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and Prospective Adoptive Parents have sought adoption of male Minor Shree ('the said male minor') born on 26/8/2022. The biological mother had surrender the said male minor before the

Child Welfare Committee (CWC), Mumbai Suburban District on 29/08/2023 and his custody was given to the Petitioner institution on the same day. On 14/9/2023 through its order, the CWC recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ('the Act'). The Admission Order is on record at page No.95(a) to the Petition.

2. After making due inquiry under Section 38 of the Act, the CWC, Mankhurd District Mumbai declared the said male minor "Legally Free for Adoption" on 3/11/2022. The Free for Adoption certificate is on record at page Nos. 93-94 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Pithampur, Dist. Dhar, Madhya Pradesh aged about 48 years and 41 years respectively, having been married for the past 20 years (13/05/2003) with no biological children.

4. The Motivation Letter of the Prospective Adoptive

Parents is on record on page No.76 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos. 102-107 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 19/4/2023 is on record on page No.90 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor born on 26/8/2022.

7. The Medical report of the Prospective Adoptive Parents dated 11/4/2023 states that they are physically and mentally fit. Their HIV & HbsAg test reports certify the case as Non-Reactive. The said reports are on record at page Nos. 32-37 to the Petition.

8. The Prospective Adoptive father is working as an Electrician with Mahindra & Mahindra Ltd., Pithampur since 1997 and his monthly (March-2023) gross salary is Rs.56,697/-.

His Company ID Card, Salary slip and Income Tax returns are on record at Page Nos.38-46 to the Petition. The Prospective Adoptive mother is a Homemaker.

9. The copies of PAN card, Proof of Residence and supportive financial documents are on record at page Nos. 23-25 and 37 and 47-50 to the Petition.

10. The Home Study Report Part-I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.51-58 and 63-70 to the Petition.

11. The Home Study Report II- Assessment reports dated 6/10/2019 and 9/10/2022 of the Social Worker of “Sanjeevani Seva Sangam”, Indore, Madhya Pradesh is on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos. 71-74 to the Petition.

12. The Child Security Undertaking dated 21/04/2023 given by the Prospective Adoptive Father's sister and brother-in-law residing at Nagpur, Maharashtra to look after the said male

minor in case of any mishap to the Prospective Adoptive Parents is on record on page Nos.77-78 to the Petition.

13. The Pre-Adoption Foster care undertaking dated 21/04/2023 is on record on page Nos. 96-97 to the Petition

14. The Joint Declaration of consent and willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. The said declaration is on record at page No.98 to the Petition.

15. The Medical Examination of the said male minor dated 6/3/2023 is on record at page Nos. 82-88 to the Petition and it states, "Health status of the Child: Normal Child. Overall Observation of the Child: His overall development is normal." The Prospective Adoptive Parents have countersigned the said Report.

16. The HIV Test Report of the said male minor dated 31/1/2023 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 male minor is on record on page No.99 to the Petition.

17. As regards the changes of name, the Prospective Adoptive Parents desire that the said male minor ‘Shree’ be renamed as “Shreyansh Dilip Khandagde”.

18. The Undertaking dated 21/08/2023 given by the authorities of Specialized Adoption Agency “Navdeep Child Welfare Center”, Indore, Madhya Pradesh for furnishing post adoption follow-up reports is on record at page No.101 to the Petition.

19. The Petitioner institution’s recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/ Representation from the Indian Council of Social Welfare dated 23/2/2024, which is taken on record and marked “**X**” for identification.

21. Having considered the material on record, as well as the Scrutiny Report dated 23/2/2024 marked “X”, in my view, it would be in the interest of the said male minor child that he is adopted by the Prospective Adoptive Parents.

22. 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

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

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."

23. Hence, it is clear that this Court can consider and disposed of the present Petition.

24. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (e) of the Petition which read thus:-

a) For adoption of the said male minor Baba **Shree @ Shreyansh Dilip Khandagde** Born on 26th August 2022 by

the Proposed Adopters under Juvenile Justice Act.

b) For declaring the Proposed Adopters as Adoptive Parents of the said male minor and shall have all parents rights, privileges and responsibilities over the said minor **Baba Shreyansh Dilip Khandagde.**

c) That the Proposed Adopters be granted permission to change the name of minor **Shree** to **Shreyansh Dilip Khandagde.**

d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor **Shreyansh Dilip Khandagde**, born on 26th August 2022, and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor.

e) 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.

25. 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 name of the Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipt to the Adopted Child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

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

27. The Indian Adoption Petition is accordingly disposed of.

28. There shall be no orders as to costs.

.

[R.I. CHAGLA, J.]