

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. 15 OF 2024
WITH
JUDGE'S ORDER NO. 22 OF 2024

Bal Anand, Worldchildren Welfare Trust India ...Petitioner

And

Babu E.S. & Anr. ...Prospective
Adoptive Parents

Mr. Rakesh K.L. Kapoor i/by Rakesh K.L. Kapoor and Co. for the
Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 7 February 2024

ORDER :

SHARAYU
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KHOT

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1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Ajay Krishna Patel (“**the said male minor**”). The said male minor was born on 5th September 2017.

2. The said male minor was found abandoned by Trombay Police Station on 19th September 2020 and admitted to the Additional Observation Home, Mankhurd on the same day. On 5th March 2021, the said male minor was transferred to the Petitioner Institution as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The Transfer Order of CWC is on record at page No. 24 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District, Mumbai declared the said male minor “Legally Free for Adoption” on 20th October 2022. The Free for adoption Certificate is on record at Page Nos. 22-23 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Ernakulam, Kerala, aged about 58 and 52 years respectively. They have been married for the past 26 years (7th September 1997) with no biological children.

5. Motivation Letter by the Prospective Adoptive Parents is

on record at page No. 37 to the Petition.

6. 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. 90-94 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 19th April 2022 is on record at page Nos. 20-21 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor child.

8. The Medical Report of the Prospective Adoptive Parents dated 15th November 2021 states, "The health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway". Their HIV I & II and Hepatitis B test Reports certifies the case as Negative. The said Reports are on record at page Nos. 29-31 to 34 to the Petition.

9. The Prospective Adoptive Father is a self-employed Carpenter and his annual income is Rs. 2,50,000/-. His Income certificate and Tax Return for the Assessment Year 2022-23 are on

record at page Nos. 47-48 to the Petition.

10. The Prospective Adoptive Mother is a Homemaker.

11. The Proof of Residence (Copies of Aadhar card) and PAN Card and other supportive financial documents are on record at page Nos. 38-41 and 49-54 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 55-60 to the Petition.

13. The Home Study Report part II: Assessment report dated 13th January 2022 of the authorities of the Department of Women and Child Development, DCPU, Ernakulam, Kerala is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. This Report is on record at page Nos. 61-64 to the Petition.

14. The child security undertaking dated 20th April 2022 by the Prospective Adoptive mother's brother and sister-in-law

residing at Maikad, Kerala to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.74-75 to the Petition.

15. Medical Examination Report of the said male minor dated 7th March 2022 states “Health Status: Normal. Overall Observation of the child: Ajay is a happy child. His growth and development appears to be age appropriate to 5-6 years (Age-verification done on 8th April 2021 4-5 years)”. The Prospective Adoptive Parents have countersigned the said Medical Examination Report. The said Report is on record at pages 79-86 to the Petition.

16. The HIV test Report of the said male minor dated 18th June 2022 certifies the case as Negative. This Report is on record at page No. 88 to the Petition.

17. The Post Card Size Photograph of the said male minor is on record at page No. 89 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor ‘**Ajay Krishna Patel**’

be renamed as “**Sreyas Vanaja Babu**”.

19. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents state that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. This declaration is on record at page No. 42 to the Petition.

20. The Pre-adoption foster care undertaking dated 24th April 2022 is on record at page Nos. 43-46 to the Petition.

21. The undertaking dated 13th April 2022 given by the specialized adoption agency “Shishu Bhavan (Foundling Home)”, Ernakulam, Kerala for furnishing post adoption follow-up Reports is on record at page No. 95 to the Petition.

22. The Petitioner Institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 5th May 2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 5th February 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 male minor, if he is adopted by the Prospective 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 only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:

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

(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 minor **Sreyas Vanaja Babu** 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 **Sreyas Vanaja Babu** born on 5th September, 2017 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 ‘**Ajay Krishna Patel**’ to “**Sreyas Vanaja Babu**” born on 05/09/2017.”

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 Lakhs only) in the name of the Adopted Child. Further the Adoptive Parents will not withdraw the said amount until the Adopted child attains majority. The Adoptive Parents have agreed to handover investment receipts to the Adopted child on his becoming a major. This undertaking is accepted as an undertaking 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.]