

Nikita

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

INDIAN ADOPTION PETITION NO.21 OF 2024
WITH
JUDGE'S ORDER NO. 31 OF 2024

NIKITA
KAILAS
DARADE

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Shraddhanand Mahilashram Through ...Petitioner
Kshama Joshi

And

1. Prasad Prakash Agnihotri ...Prospective
2. Divya Prasad Agnihotri Adoptive Parents

Mr. Rakesh Kapoor i/b M/s. Rakesh K.L. Kapoor & Co., Advocate for
the Petitioner.

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

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

Mr. Prasad Prakash Agnihotri (Adoptive Father present).

CORAM : R.I. CHAGLA, J.

DATE : 21st FEBRUARY 2024.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and Prospective Adoptive Parents, the adoption of female
minor Sadhavi ("the said female minor") has been sought. The said

female minor was born on 4th April 2022. The said female minor was admitted to the Petitioner Institution on 2nd May 2022 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 2nd May 2022 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('the said Act'). Thereafter, the birth Mother executed a Deed of surrender before the said CWC on 19th July 2022 for the said female minor's further rehabilitation. The admission order of CWC is on record at page no.23 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 "Legally Free for Adoption" on 6th October 2022. This certificate is on record on page 22 to the petition.

3. The Prospective Adoptive Parents who reside at Kalyan, Dist. Thane are aged about 40 and 35 years respectively. They have been married for the past 10 years (18th May 2013) with no biological children.

4. The motivation letter of the Prospective Adoptive Parents is on record at page 31 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized

Adoption Agency (Petitioner) in support of the adoption of the female minor is on record at page Nos. 118 -122 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 21st June 2023, is on record at page No.21 to the Petition and the Committee has decided that the Prospective Adopted Parents are suitable to adopt the said female minor.

7. The Health report dated 6th June 2023 of the Prospective Adoptive Parents is on record and it states, “Found them physically fit, do not have any chronic disease or contagious disease. They are fit to adopt a child”. Their HIV and HbsAg test report certify the case as Negative. These reports are at page Nos. 27- 30 to the petition.

8. The Prospective Adoptive Father is working as a Network Engineer with Accenture Solutions Pvt. Ltd., Pune Since December, 2019 and his monthly (May-2023) gross salary is Rs.3,41,163/-. His Pay slips, Form. 16 and Income Tax Returns are on record at page No.38-63 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The Proof of Residence and copies of Pan card and supportive financial documents are on record at page Nos. 32-34 and

64-79 to the Petition.

10. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 80-86 to the petition.

11. The Home Study Part II: Assessment Report dated 8th May 2021 by the Social Worker of “Janani Ashish Charitable Trust”, Dombivali Dist. Thane is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at page Nos. 87-93 to the Petition.

12. The Child Security Undertaking dated 22nd June 2023 given by the Prospective Adoptive Father’s sister and brother-in-law residing at Rahatni, Pune to look after the said female minor in case of an mishap to the Prospective Adoptive Parents is on record is at page Nos.101-105 to the Petition.

13. Medical Examination Report dated 1st May 2023 of the said female minor is on record and it states “Health Status: Normal. General level of activity: Active”. The Proposed Adopters have countersigned the said report which is on record at page Nos. 108 -114 to the petition.

14. The HIV Test Report of the said female minor dated 8th October 2022 certifies a case as Non reactive. This report is on record at page Nos.116 to the Petition.

15. Post card size photograph of the said female minor is on record at page No.117 to the Petition.

16. As regards the change of the name, the Prospective Adoptive Parents desire that the said female minor be renamed as “Vaidehi Prasad Agnihotri”.

17. The Declaration of consent and Undertaking by the Prospective Adoptive Parents are on record and it states that they are willing to be appointed and declared as the adoptive parents of the said female minor. The said Declaration is on record at page Nos. 35–35(a) to the Petition.

18. The Pre-Adoption Foster Care Undertaking dated 23rd June 2023 is on record at page Nos. 36-37 to the Petition.

19. The Undertaking dated 13th June 2023 by the Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombivali Dist. Thane, Maharashtra for furnishing post adopting follow-up reports is

on record at page No.123 to the Petition.

20. The Petitioner institution's recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid up to 8th March 2024.

21. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/ Representation from the Indian Council of Social Welfare dated 15th February 2024, which is taken on record and marked "X" for identification.

22. Having considered the material on record, as well as the Scrutiny Report dated 15th February 2024 marked "X", in my view, it would be in the interest of the said female minor child that she is adopted by the Prospective 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 disposed 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 female minor **Vaidehi Prasad Agnihotri** 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 female 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 female minor **Vaidehi Prasad Agnihotri** born on 4/4/2022 and stating thereon that the Prospective Adoptive Parents are the Parents of the said female minor.

d) That the Prospective Adoptive Parents be allowed to change

the name of the said female minor from **SADHAVI** to **“Vaidehi Prasad Agnihotri”**.

27. 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 her becoming a major. This undertaking is accepted as an undertaking to this Court.

27. The Judge’s Order is also separately signed.

28. The Indian Adoption Petition is accordingly disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]