

adoption of the female minor Anisha (“**the said female minor**”) born on 25th May, 2022.

2. The said female minor was admitted to the Petitioner-Institution on 07/06/2022, as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 07/06/2022, under the provisions of the Juvenile Justice (Care and Protection of Children) Act 2015. Thereafter, the birth mother of the said female minor executed a Deed of Surrender before the CWC, on 04/08/2022 for the child’s further rehabilitation. The Custody Order of the CWC is on record at page No. 23 to the Petition.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2021, the CWC, Mumbai City II, declared the said female minor “Legally Free for Adoption” on 24/11/2022. The Free for adoption Certificate is on record at page No. 22 to the Petition.

4. The Prospective Adoptive Parents are residing at Kannur, Kerala aged about 48 and 47 years respectively. They have been married for the past 8 years (20/05/2015) with no biological children.

5. The motivation letter of the Prospective Adoptive Parents is on record at page 36 to the Petition.

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. 90-94 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 27/06/2023 is on record at page No. 21 to the Petition and it states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Health report dated 21/06/2023 of the Prospective Adoptive Parents states, "They are mentally and physically fit". Their HIV and HBsAg test report certify the case as Non Reactive. The said reports are on record at page Nos. 29-36 to the Petition.

9. The Prospective Adoptive Father is self-employed (LIC Agent) since 1999 and his annual income is Rs. 3,05,203/-. Income certificate from Village Office, Government of Kerala and Annual Tax Statement for the Assessment Years 2021-22 and 2022-23 are on record at Page Nos. 45-47 to the Petition. The

Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence & copies of Pan Card and supportive financial documents are on record at page Nos. 37-40 & 48-53 to the Petition.

11. The home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 54-61 to the Petition.

12. The home study Report Part II: Assessment reports dated 22/02/2023 by the Social Worker of “Sneha Niketan Foundling Home”, Pattuvam, Kerala, has found the prospective adoptive parents suitable for adopting a child. The said reports are on record at page Nos. 62-68 to the Petition.

13. The child security undertaking dated 27/06/2023 given by the Prospective Adoptive mother’s cousin brother and sister-in-law residing at Ambarnath, Thane, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 76-77 to the Petition.

14. Medical Examination Report dated 27/04/2023 of the

said female minor states “Health Status: Normal. Overall observation of the child: Active Child”. The Proposed Adopters have countersigned the said report. This report is on record at page Nos. 80-86 to the Petition.

15. The HIV report of the said female minor dated 08/10/2022 certifies the case as Non reactive. The said report is on record at page No. 88 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No. 89 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire the said female minor ‘**Anisha**’ be renamed as “**Aswati Jayesh Nambiar**”.

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the adoptive parents of the said female minor. The declaration is on record at page No. 41 to the Petition.

18. The Pre-adoption foster care undertaking dated 27/06/2023 is on record at page Nos. 42-44 to the Petition.

19. The undertaking dated 13/06/2023 by the Specialized Adoption Agency “Sneha Niketan Foundling Home”, Pattuvam, Kannur, Kerala for furnishing post adoption follow-up reports is on record at page No.95 to the Petition.

20. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 08/03/2024.

21. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation of the Indian Council of Social Welfare dated 7th February, 2024, which is taken on record and marked ‘X’ for identification.

22. Having considered the material on record as well as the Report/Representation of the Scrutiny Officer marked ‘X’, I am of the view that it would be in the interest of the said female minor, if 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

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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 Aswati Jayesh Nambiar 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 Aswati Jayesh Nambiar born on 25/05/2022 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 ANISHA to “Aswati Jayesh Nambiar”.

26. 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. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipts 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 accepted and signed separately.

28. The present Indian Adoption Petition is accordingly, disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]