

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 6 OF 2024
WITH
JUDGE'S ORDER NO. 24 OF 2024

Smt. Narsabai Mahila Mandal

...Petitioner

And

Ms. Urmila Parthasarathy

... Proposed
Adoptive Parent

Mr. Swapnil S. Dhage 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 :

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1. By this Foreign Adoption Petition, the Petitioner and the Proposed Adoptive Parent are seeking adoption of the female minor **Savitri (“the said female minor”)**, born on or about 26th May 2017. The said female minor was found abandoned by the Nanded Railway

Police on 27th May 2019 and produced before the Child Welfare Committee (CWC), Nanded on the same day and the child's safe custody was given to the Petitioner institution on 27th May 2019 for care and protection.

2. The CWC through its order dated 29th May 2019 recognized that admission under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**").

3. The admission order is on record at page No. 40 to the Petition.

4. After making due inquiry under Section 38 of the Act, the CWC declared the said female minor Savitri "Legally Free for Adoption" as on 26th November 2021. The Free for Adoption order is on record at page Nos. 47-48 to the Petition.

5. The Central Adoption Resource Authority (CARA) has issued its No Objection Certificate (dated 18th October 2023) to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in

respect of Inter-country Adoption 1993. The said No Objection Certificate is on record at Page No. 107 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. 149-152 to the Petition.

7. The Proposed Adoptive Parent is a spinster of American nationality being of Indian origin, residing at Texas, U.S.A. aged about 47 years with no biological/adopted children.

8. The Proposed Adoptive Parent's Passport copy and Photograph is on record at page Nos. 28-31 and 103 to the Petition.

9. The Medical Report dated 14th April 2023 of the Proposed Adoptive Parent is on record and states that she is in excellent physical and mental health and physically capable of caring for a child. She has no contagious or communicable diseases. Her HIV Report certifies the case as Negative. These Reports are at page Nos. 111-114 to the Petition.

10. The Proposed Adoptive Parent is employed with Austin Regional Clinic as a Physician since September, 2014 and her annual salary is \$225,328. Her Employment and Income Certificate and Income Tax Return-2022 are on record at page Nos. 115-121 to the Petition.

11. The Proof of Residence of the Proposed Adoptive Parent is on record at page Nos. 34-39 to the Petition.

12. The childcare arrangement undertaking of the Proposed Adoptive Parent is on record at page Nos. 136-137 to the Petition.

13. The Home Study Report dated 1st June 2023 by the authorities of “International Family Services” Texas, U.S.A. has recommended and approved the Proposed Adoptive Parent to adopt one female child, 4 to 6 years at the time of referral from India, who has minor to moderate special medical needs. The said Report is at page Nos. 78-90 to the Petition.

14. The Psychological Assessment Report dated 12th

May 2022 by the Licensed Psychotherapy Services, Texas, USA states that the Proposed Adoptive Parent is suitable for adopting a child. The said Report is on record at page Nos. 92-100 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 51-56 to the Petition.

16. The child Security undertaking dated 3rd November 2022 of the Prospective Adoptive mother's sister residing at Texas, USA to take care of the said female minor in case of any unforeseen mishap to the Proposed Adoptive Parent is on record at page Nos. 134-135 to the Petition.

17. The Medical Examination Report of the said female minor dated 8th March 2023 states "Health status of the child: Normal. Overall Observation of the child: Normal healthy child." The Proposed Adoptive Parent has countersigned this Report. The said Report is on record at page Nos. 67-75 to the Petition.

18. The I.Q. Report dated 8th August 2023 of the said

female minor states, “Her IQ is 91 and SQ is 94, which places her in Average Intellectual level”. The said Report is on record at page Nos. 62-63 to the Petition.

19. The H.I.V. Report of the said female minor dated 8th March 2023 certifies the case as Non-Reactive. The said Report is on record at page No. 64 to the Petition.

20. The post card size photograph of the said female minor is on record at page No.57 to the Petition.

21. As regards the change of name, the Proposed Adopter desires that the said female minor ‘**Savitri**’ be renamed as “**Meena Parthasarathy**”.

22. The Declaration of willingness and undertaking of the Prospective Adoptive Parent states that she is willing to adopt Savitri. She further undertakes that she will allow personal visits by the representative of the Authorized Foreign Adoption Agency (AFFA) for follow-up of the progress of the child as required under the Adoption Regulations. The said Declaration is on record at page No.

126 and 148E to the Petition.

23. The undertaking dated 5th April 2023 of the Authorized Foreign Adoption Agency (AFFA) “International Adoption Net” Colorado, USA to provide follow-up report of the said female minor child and make alternative arrangement in case of disruption of the adoptive family is on record at page No. 127-128 to the Petition.

24. The copy of General Power of Attorney dated 9th May 2023 duly executed by the Proposed Adoptive Parent in favour the Petitioner Institution is on record at page Nos. 45-46 to the Petition.

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

26. The Scrutiny Officer, Mr. O. Hareendran has tendered Report/Representation of Indian Council of Social Welfare dated 30th January 2024 which is taken on record and marked “X”

for identification.

27. 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 female minor, if she is adopted by the Proposed Adoptive Parent.

28. 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

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

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.”

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

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

“(a) The above-named Proposed Adoptive Parent may please to declared as parent of the said female child for all purposes allowed by the law and may be allowed to be taken to the country of their residence for upbringing the child as their own child;

(b) The Birth Certificate Issue Authority may please be directed to issue Birth Certificate for the said child within five working days from the date of Application, as per the provisions of Sub-regulation (5) of regulations 18 and regulation 36;

(c) The Regional Passport Office (RPO) concerned may be directed to issue Passport for the said child within 10 days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38;

(d) The male child namely ‘SAVITRI’ be renamed as ‘MEENA PARTHASARATHY;”

31. Judge’s Order is accepted and signed separately.

32. It is directed that the Petitioner institution will obtain further undertakings from the Adoptive Parent that she will not give the Adopted Child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall

be filed on the record of this Court.

33. The Foreign Adoption Petition is accordingly,
disposed of.

34. There shall be no order as to costs.

[R.I. CHAGLA J.]