

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. 16 OF 2024
WITH
JUDGE'S ORDER NO. 23 OF 2024

Vatsalya Trust

...Petitioner

And

Mr. Harshal Pandurang More & Anr.

...Prospective
Adoptive Parents

Ms. Sangeeta Nagpal for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 7 February 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Rutvika (“**the said female minor**”). The said female minor was born on 5th February 2023.

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2. The biological mother surrendered the said female minor child before the Child Welfare Committee (CWC), Mumbai Suburban District on 10th February 2023. The said female minor's custody was given to the Petitioner Institution Vatsalya Trust, Mumbai on the same day. On 14th February 2023 through its order, the CWC, Mumbai Suburban District recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**"). The Admission Order is on record at page No. 109 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, District Mumbai declared the said female minor "Legally Free for Adoption" on 13th June 2023. The Free for adoption Certificate is on record at page Nos. 106-107 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Dhule, Maharashtra aged about 47 years and 39 years respectively, having been married for the past 16 years (4th May 2007) with no biological children.

5. The Motivation Letter of the Prospective Adoptive

Parents is on record at Page No. 87 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. 111-116 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 23rd August 2023 is on record at page No. 103. to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt said female minor.

8. The Medical Report of the Prospective Adoptive Parents dated 13th August 2023 states that they are not suffering from any chronic, contagious or fatal disease and fit for adoption. Their HIV and HBsAg test Reports certify the case as Negative. The said Reports are on record at page Nos. 31-37a to the Petition.

9. The Prospective Adoptive father is working as a Quality Head with Maharashtra Oil Extractions Pvt. Ltd., Dhule since December 2008 and his annual income for the year 1st April 2022 to 31st March 2023 is Rs. 5,39,827/-. The Letter of Appointment, Salary

Certificate and Income Tax Returns are on record at Page Nos. 38-49.
to the Petition.

10. The Prospective Adoptive mother is a Homemaker.

11. The copies of PAN card, supportive financial documents and proof of Residence are on record at page Nos. 24, 27, 50-54 to the Petition.

12. The Home study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 55-72 to the Petition.

13. The Home Study Part II: Assessment Reports dated 24th January 2020 and 28th January 2023 of the Social Worker of “Shishu Gruha” Dhule is on record and the Reports have shown that the Prospective Adoptive Parents are suitable for adopting a child. The said Home Study Reports are at page Nos. 73-85 to the Petition.

14. The child security undertaking dated 5th September 2023 given by the Prospective Adoptive mother's sister

and brother-in-law residing at Pachora, District Jalgaon, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 88-91 to the Petition.

15. The Pre-adoption foster care undertaking dated 28th August 2023 is on record at page Nos. 111-112 to the Petition.

16. The Joint Declaration of consent and willingness to adopt by the Prospective Adoptive Parents state 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. 113-114 to the Petition.

17. The Medical Examination of the said female minor dated 21st July 2023 states "Health status of the child: Normal child. Overall Observation of the child: Up to now her overall development is within normal limits." The Proposed Adoptive Parents have countersigned the said Report which is on record at page Nos. 95-101 to the Petition.

18. The HIV Report of the said female minor dated 13th July 2023 certifies the case as Negative. This Report is on record at page No.102 to the Petition.

19. The Post Card Size Photograph of the said female minor is on record at page No.115 to the Petition.

20. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Rutvika' be renamed as "Rutvika Harshal More".

21. The undertaking dated 21st August 2023 given by the authorities of Specialized Adoption Agency "Shishu Gruha", Dhule, Maharashtra for furnishing post adoption follow-up Report is on record at page No. 117 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 July 2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered

Report/Representation of Indian Council of Social Welfare dated 29th January 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 dated 29th January 2024 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 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 (e) of the Petition, which read thus:-

- “(a) For adoption of the Proposed female **RUTVIKA @ RUTVIKA HARSHAL MORE**, born on **5th February 2023** by the Proposed Adopters under Juvenile Justice Act.
- (b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor **RUTVIKA HARSHAL MORE**.
- (c) That the Proposed Adopters be granted permission to change the name of minor **RUTVIKA** to **RUTVIKA HARSHAL MORE**.
- (d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor **RUTVIKA HARSHAL MORE** born on **5th February 2023** and stating thereon that the Prospective Adoptive Parent 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.

28. There is an undertaking in the Judge's Order that Adoptive Parents will invest in fixed deposit a sum of Rs. 1,00,000/- (Rupees One Lakhs only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive Parents have agreed to handover investment receipts to the Adopted child on her 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.]