

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. 1 OF 2024
WITH
JUDGE'S ORDER NO. 4 OF 2024

Children of the World India Trust ...Petitioner

And

Tejal Dinkar Mehta & Anr. ...Proposed Adopters

Mr. R.K.L. Kapoor for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer present.
Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 4 January 2024

ORDER :

1. By this Foreign Adoption Petition, the Petitioner and the Proposed Adopters are seeking adoption of the female minor Zinat Husna Shaikh (“**the said female minor**”) born to an unwed minor mother on 15th June 2023. The biological minor mother and her mother surrendered the said minor before the Child Welfare

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Committee (CWC), Palghar on 30th June 2023.

2. The said female minor was thereafter transferred to CWC, Thane on 30th June 2023 and the said CWC Thane admitted the said female minor to the Petitioner institution on the same day as per the order of the CWC, Thane dated 30th June 2023 under the provisions of Juvenile Justice (Care and Protection of the Children) Act, 2015 (“**the said Act**”). The Admission order of CWC Thane is on record at page No. 18 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Thane declared the said female minor “Free for Adoption” on 5th September 2023. The Free for Adoption Order is on record at Page No. 17 to the Petition.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 2nd November 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. 26 to the Petition.

5. The undertaking/affidavit by the Petitioner institution is on record at page Nos. 19-24 to the Petition.

6. The Proposed Adopters are Indian Nationals, residing at Selangor, Malaysia aged about 44 years and 41 years respectively. They have been married for the past 15 years (26th April 2008) with no biological children.

7. The Proposed Adopters Joint Family Photograph and Copies of Passport are on record at page Nos. 26-32 to the Petition.

8. The Health Reports dated 18th March 2023 of the Prospective Adoptive Parents states that both are clinically, medically and mentally fit at present. Their HIV and Hepatitis B test Reports certify the case as Non Reactive. The said Reports are on record at page Nos. 36-37D to the Petition.

9. The Prospective Adoptive Father is working as a Director, HR Service Centre with Abbott Laboratories (Malaysia) SDN BHD since 15th December 2011 and his monthly (October-2023) gross salary is MYR 46,600.45 (=Rs. 7,46,478/-). His Employment

Certificate, Pay slips and Tax Assessment are on record at page Nos. 38-47 to the Petition.

10. The Prospective Adoptive mother is a Homemaker.

11. The supportive financial documents and proof of residence are on record at page Nos. 48-56 to the Petition.

12. The Home Study Report dated 16th March 2023 by Noorzafura Binti Rohman, Kuala Lumpur, Malaysia is on record and the Report has found the Proposed Adopters suitable for adopting a child. The said Home Study Report is on record at page Nos. 57-64 to the Petition.

13. The Psychological Evaluation Reports dated 21st March 2023 by Dr. ANG Jin Kiat, Consultant Psychiatrist states that both are not suffering from any personality disorder or mental illness. The said Report is on record at page Nos. 65-66 to the Petition.

14. The High Commission of India Kuala Lumpur letter dated 25th September 2023 regarding Permission of the Receiving

Country as per Article 5/17 of the Hague Convention is on record at page No 67 to the Petition.

15. The child security undertaking dated 30th October 2023 given by the Prospective Adoptive Mother's brother and sister-in-law residing at Pune, Maharashtra to look after the said female minor in the event of any unforeseen mishap to the Proposed Adopters is on record at Page Nos. 72-73 to the Petition.

16. The Medical Examination Report of the said female minor dated 11th September 2023 states that "Health Status: Normal. Overall observation of the child: Normal development as the child is too small, she is under further observation". The Proposed Adopters have countersigned this Report, which is on record at page Nos. 77-84 to the Petition.

17. The H.I.V. Report of the said female minor dated 27th July 2023 certifies the case as Non Reactive. This Report is on record at page No.85 to the Petition.

18. The Post Card size Photograph of the said female

minor is on record at page No. 86 to the Petition.

19. The consent, willingness and undertaking of Proposed Adopters are on record and it states that they are willing to adopt the said female minor child. They further undertake that they will allow personal visits by the authorized social workers or the functionaries from the Indian Diplomatic Missions during post-adoption follow-up as per Adoption Regulations 2022. The said declaration is at page Nos. 87-88 to the Petition.

20. As regards the change of name, the Proposed Adopters' desire that the said female minor 'Zinat Husna Shaikh' be renamed as "Meera Mehta".

21. The undertaking dated 25th September 2023 of the High Commission of India, Kuala Lumpur, Malaysia to provide follow-up reports of the said female minor child is on record at page No. 89 to the Petition.

22. The Power of Attorney dated 26th October 2023 duly executed by the Proposed Adopters in favour of the Petitioner

institution is on record at page Nos. 90-91 to the Petition.

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

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 26th December 2023, which is taken on record and marked "X" for identification.

25. Having considered the documents placed 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 Prospective Adopters.

26. 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

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

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.”

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

28. In these circumstances, the Foreign Adoption Petition is made absolute in terms of prayer clauses (a) to (e) which read thus:-

- “(a) For the Adoption of the proposed female minor Meera Mehta born on 15/06/2023 by the proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.*
- (b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Meera Mehta, having all parental rights, privileges and responsibilities over the over the said minor now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot No. 9 &10, Sector- 12 Nerul, Navi Mumbai – 400 706.*
- (c) That the proposed adopters be allowed to change the name of the said minor Zinat husna Shaikh to **Meera Mehta**.*

- (d) *Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Meera Mehta born on 15/06/2023 and showing the proposed adopters as Parents.*
- (e) *That the Proposed Adopters may be granted leave to remove the said minor Meera Mehta from the jurisdiction of this Hon'ble Court and to take the said minor to Malaysia or wherever they may reside in future."*

29. Judge's Order is accepted and signed separately.

30. It is directed that the Petitioner institution will obtain further undertakings from the Adoptive Parents that they shall 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.

31. The Foreign Adoption Petition is accordingly, disposed of. There shall be no order as to costs.

[R.I. CHAGLA J.]