

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

INDIAN ADOPTION PETITION NO.11 OF 2024

WITH

JUDGE'S ORDER NO.17 OF 2024

**Maharashtra State Women's Council Adoption ...Petitioner
Group Through Convenor / Autho. Signatory
Lalita Godbole**

Versus

**Ismail M. And Zaithunnisa B (proposed
parents)**

**...Respondents /
Proposed
Adoptive Parents**

Ms. Dipal Sanjanwala Mehta for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare
present.

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 25 January 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner-
Institution and the Proposed Adoptive Parents have sought adoption
of female minor Mysha ("**the said female minor**") born on 7th

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November 2022. The biological mother surrendered the said female minor before the Child Welfare Committee, (CWC), Mumbai – City II on 2nd December 2022 and the said female minor's safe custody was given to the Petitioner-Institution on the same day as per the order of the said CWC dated 2nd December 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The CWC Admission order has been placed on record at page No. 21 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 3rd March 2023. The Free for Adoption order has been placed on record at page Nos. 22-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Devangere, Karnataka, aged about 47 and 42 years respectively. They have been married for the past 18 years (15th January 2006) with one biological son aged about 1 year 4 months. His birth and medical certificates have been placed on record at page Nos. 30 & 37-39 to the Petition.

Vina Khadpe

4. The Motivation Letter of the Prospective Adoptive Parents has been placed on record at Page No. 27 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor has been placed on record at page Nos. 141-147 to the Petition.

6. The Minutes of Adoption Committee meeting held on 30th October 2023 have been placed on record at page Nos. 18-20 to the Petition. The committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 3rd June 2023 states, "The health of the prospective adoptive parents do not disqualify them in parenting a child in anyway". Their HIV and HBsAg test Reports certifies the case as Non Reactive. The said Reports have been place on record at page Nos. 31-36 to the Petition.

8. The Prospective Adoptive Father is self-employed

Vina Khadpe

(Proprietor of Hollywood Footwear) at Davangere and his income for the Assessment Year 2023-24 is Rs. 4,02,470/-. His Income Tax Returns have been placed on record at page Nos. 53-60 to the Petition.

9. The Prospective Adoptive Mother is a Pharmacy Officer with the Department of Health and Family Welfare, Govt. of Karnataka at Bilichodu, Davangere since 16 November 2010 and her monthly (October-2023) gross salary is Rs. 57, 800/-.

10. The proof of residence, copies of PAN card and other supportive financial documents have been placed on record at page Nos. 51-52, 45-46 & 77-83 to the Petition.

11. Childcare arrangement plan undertaken of the Prospective Adoptive Mother has been placed on record at Page Nos. 86-88 to the Petition.

12. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos. Pg. 89-97 & 103-111 to the Petition.

13. The Home Study Report Part II: Assessment Reports of the authorities of Specialized Adoption Agency “Amulya (G)” Davanagere, Karnataka dated 5th December 2022 and 3rd August 2023 have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports have been placed on record at page Nos. 98-102 & 112-117 to the Petition.

14. The child security undertaking dated 28th November 2023 given by the Prospective Adoptive Mother’s brother and sister-in-law residing at Bengaluru, Karnataka to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page Nos. 134-140 to the Petition.

15. The Pre-adoption foster care undertaking dated 24th November 2023 has been placed on record at page Nos. 48-50 to the Petition.

16. The Joint Declaration of consent & willingness to adopt 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 Prospective Adoptive Parents have further agreed and undertaken to the Petitioner-Institution and to this Court that they

Vina Khadpe

will not give the said female minor in further adoption to anyone residing in or outside India. The said declaration has been placed on record at page No.47 to the Petition.

17. The Medical Examination Report of the said female minor dated 16th May 2023 states, “Health Status: Normal. Overall Observation of the child: A normal, healthy child”. The Prospective Adoptive Parents have countersigned the said Report. The said Report has been placed on record at page Nos. 127-131 to the Petition.

18. The HIV Report of the said female minor dated 20th January 2023 certifies the case as Non Reactive. The said Report has been placed on record at page No. 132 to the Petition.

19. The post card size photograph of the said female minor has been placed on record at page No. 27 to the Petition.

20. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Mysha’ be renamed as “Mysha I.”.

21. The undertaking dated 28th November 2023 given by the Specialized Adoption Agency “Amulya (G)” Davanagere, Karnataka for furnishing post adoption follow-up Reports has been placed on record at page No. 133 to the Petition.

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

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation of the Indian Council of Social Welfare dated 8th January 2024, which is taken on record and marked ‘x’ for identification.

24. Having considered the material on record as well as the Report/Representation dated 8th January 2024 of the Scrutiny Officer which is marked ‘x’, in my view, it would be in the interest of the said female minor, if she is adopted by the proposed adoptive parents.

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:

(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

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

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 the circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) which read thus;

(a) This Hon’ble Court may be pleased to appoint the Co-Petitioners, Ismail M and Zaithunnisa B as the adoptive parents of the female minor, Mysha @ Mysha I, in the care of the Maharashtra State Women’s Council Adoption Group at Maharashtra State Women’s Council Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009.

- (b) That the Co-Petitioners be allowed to change the name of the minor from 'Mysha' to 'Mysha I,
- (c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor alongwith them, i.e. to the Co-Petitioners' family wherever they may reside or their work may require them to,
- (d) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations.

28. There is an undertaking of the Adoptive Parents in the Judge's order to invest a sum of Rs.1,00,000/- in the name of Adopted Child. They also further undertake not to withdraw this investment till the Adopted Child attains majority. They agree to hand over the investment receipts to the Adopted Child on her

Vina Khadpe

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

29. The Judge's order is accepted and signed separately.

30. The Indian Adoption Petition is accordingly disposed of.

No order as to costs.

[R.I. CHAGLA J.]

Digitally
signed by
VINA
ARVIND
KHADPE
Date:
2024.02.01
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+0530