

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. 3 OF 2024
WITH
JUDGE'S ORDER NO. 7 OF 2024

Maharashtra State Women's Council
Adoption Group

...Petitioner

And

Kiran Shridhar Joshi & Anr.

...Co-Petitioners/
Proposed Adopters

Ms. Dipal Sanjanwala Mehta for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer present.

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

Mr. Kiran Shridhar Joshi and Mrs. Shraddha Thambe, Proposed
Adopter Parents and Mishti/Aaryaa Kiran Joshi present.

CORAM : R.I. CHAGLA J

DATE : 11 January 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adopters have sought adoption of the female minor Mishti

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(**“the said female minor”**) born on 4th January 2021. The said female minor was found abandoned by the J.J. Marg Police Station on 4th March 2023 and produced before the Child Welfare Committee (CWC), Mumbai City-I and her custody was given to the Petitioner institution’s Bal Gruha on the same day.

2. Thereafter, the said female minor was transferred to the Petitioner Institution M.S.W.C. Adoption Group at Umerkhadi on 16th May 2023 as per the order of the said CWC under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (**“the said Act”**) for the purpose of future rehabilitation. The Transfer Order of the CWC, Mumbai City-I is on record at page No. 21 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City-II declared the said female minor Mishti **“Legally Free for Adoption”** as on 13th October 2023. The Free for Adoption order is on record at page Nos. 22-25 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Andheri, Mumbai, aged about 47 and 43 years

respectively, having been married for the past 14 years (2nd September 2009) with no biological children.

5. The Motivation Letter of the prospective adoptive parents is on record at Page No. 28 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 child is on record at page Nos. 136-142 to the Petition.

7. The Minutes of the Adoption Committee meeting held on 16th November 2023 is on record at page Nos. 18-20 to the Petition and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Medical Report of the Prospective Adoptive Parents dated 4th November 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 Report is on record at page Nos. 31-38 to the Petition.

9. The Prospective Adoptive Father is working as a Senior Manager with Reliance Industries Ltd., Navi Mumbai since 2018 and his monthly (October-2023) gross salary is Rs. 1,81,826/-. His Pay slips and Income Tax Returns are on record at page Nos. 51-56 to the Petition.

10. The Prospective Adoptive Mother is a Homemaker.

11. The proof of residence, copies of PAN card and other supportive financial documents are on record at page Nos. 42-43, 50 and 60-79 to the Petition.

12. Childcare arrangement plan undertaking of the Adoptive Mother is on record at Page Nos. 80-82 to the Petition.

13. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 83-93 and 99-108 to the Petition.

14. The Home Study Report Part II: Assessment report of the authorities of “Children of the World (India) Trust”, Nerul,

Navi Mumbai dated 17th September 2019 and updated report dated 1st September 2022 of the authorities of “St. Catherine’s Home” Andheri, Mumbai are on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are at page Nos. 94-98 and 109-112 to the Petition.

15. The child security undertaking dated 27th November 2023 given by the Prospective Adoptive Mother’s cousin brother and sister-in-law residing at Dadar, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 131-135 to the Petition.

16. The Pre-adoption foster care undertaking dated 23rd November 2023 is on record at page Nos. 47-49 to the Petition.

17. 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 the Court that

they will not give the said female minor child in further adoption to anyone residing in or outside India. The said declaration is on record at page Nos. 44-46 to the Petition.

18. The Medical Examination Report of the said female minor dated 10th October 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 is on record at page Nos. 121-126 to the Petition.

19. The Report of Psychological Testing of the said female minor dated 20th September 2023 states "Based on the VSMS, she gains a Social Quotient of 112 points which places her in above average range of social functioning". The Prospective Adoptive Parents have countersigned the said Report, which is on record at page Nos. 128-129 to the Petition.

20. The HIV Report of the said female minor dated 12th September 2023 certifies the case as Non Reactive. This Report is on record at page No. 127 to the Petition.

21. The Post Card Size Photograph of the said female minor is on record at page No. 27 to the Petition.

22. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Mishti' be renamed as "Aaryaa Kiran Joshi".

23. The undertaking dated 15th November 2023 given by the Specialized Adoption Agency "St. Catherine's Home" Andheri, Mumbai for furnishing post adoption follow-up reports is on record at page No. 130 to the Petition.

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

25. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 8th January 2024, which is taken on record and marked "X" for identification.

26. 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 Prospective Adopters.

27. 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

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

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."*

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

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

"(a) This Hon'ble Court may be pleased to appoint the Co-Petitioners, Kiran Shridhar Joshi and Shraddha Tambe

as the adoptive parents of the female minor, Mishti @ Aaryaa Kiran Joshi, in the care of 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 'Mishti' to 'Aaryaa Kiran Joshi',*
- (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.*

30. There is an undertaking in the Judge's Order that the Adoptive Parents will create a fixed deposit for an amount of Rs. 1,00,000/- (Rupees One Lakh 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 his becoming a major. This undertaking is accepted as an undertaking to this Court.

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

32. The Indian Adoption Petition is accordingly, disposed of.

33. There shall be no order as to costs.

[R.I. CHAGLA J.]