

Sharada

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

INDIAN ADOPTION PETITION NO. 31 OF 2024

WITH

JUDGE'S ORDER NO. 52 OF 2024

IN

INDIAN ADOPTION PETITION NO. 31 OF 2024

Vatsalya Trust, Mumbai Through its
Authorised Singnatory / Convener Nanda
Sangode

...Petitioner

And

Ardhendu Bandyopadhyay & Paromita
Banerjee and Ishanvi Banerjee (Minor)

...Prospective
Adoptive Parents

Ms. Aarti Prasad Kulkarni, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

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

CORAM : R.I. CHAGLA, J.

DATE : 21ST MARCH 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the

Prospective Adoptive Parents have sought adoption of the female minor Shrija (“**the said female minor**”) born on 23/12/2022. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District on 29/12/2022 and the child’s safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 29/12/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The CWC Admission order is on record at page No.21 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District declared the said female minor Shrija (“Legally Free for Adoption”) on 09/03/2023. The Free for adoption Certificate is on record at Page Nos. 23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Kolkata, West Bengal, aged about 46 years and 38 years respectively. They having married for the past 16 years (27/01/2008) with no biological / adopted children.

4. The Motivation Letter of the Proposed Adoptive Parents is on record at page No. 38 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 is on record at page Nos. 115-120 to the Petition.

6. The Minutes of Adoption Committee meeting held on 01/09/2023 is on record at page No.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 29/08/2023 states that both are in good health and no previous illness. Their HIV and HbsAg test reports certify the case as Non Reactive. These reports can be found at page Nos.28-37 to the Petition.

8. The Prospective Adoptive Father is working as an Assistant General Manager with IDBI Bank, Esplanade Branch, Kolkata since August 2010 and his monthly (August-2023) gross salary is Rs1,67,645/-. The Income Tax Returns and pay slip are on record at page Nos.49-53 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The copies of Pan Card, Proof of Residence and supportive

financial documents are on record at page Nos.39-42 & 54-59 to the Petition.

10. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.60-67 & 73-80 to the Petition.

11. The Home Study Part II : Assessment Reports of the Specialized Adoption Agency, (“St. Catherine’s Home”), Andheri, Mumbai and updated report dated 11/02/2023 of the Specialized Adoption Agency (“Indian Society for Rehabilitation of Children”), Kolkata have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.68-72 & 81-90 to the Petition.

12. The child security undertaking dated 22/08/2023 given by the Prospective Adoptive father’s sister and brother-in-law residing at Paschim Bardhaman, West Bengal to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 100-101 to the Petition.

13. The Pre-adoption foster care undertaking dated 22/08/2023 is on record at page Nos.45-48 to the Petition.

14. The Medical Examination Report of the said female minor dated 21/07/2023 states, “Health status Normal. Overall Observation of the child: Up to now her overall development is within normal limits”. The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.105-111 to the Petition.

15. The HIV report of the said female minor dated 31/12/2022 certifies the case as Negative. This report is on record at page No. 113 to the Petition. The Photograph of the said female minor is on record at page No.114 to the Petition.

16. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor ‘Shrija’ be renamed as “Ishanvi Banerjee”.

17. The Declaration of consent, and undertaking of the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said female minor. The said Declaration is on record at page Nos.43-44 to the Petition.

18. The undertaking dated 06/12/2023 given by the authorities of (“Indian Society for Rehabilitation of Children”),

Kolkata for furnishing post adoption follow-up reports is on record at page No.124 to the Petition.

19. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 12/03/2024 which is taken on record and marked 'X' for identification.

21. Having considered the material on record as well as the Report of the Scrutiny Officer dated 12/03/2024 marked 'X', in my view, it would be in the interest of the said female minor child if she is adopted by the Proposed Adoptive Parents.

22. 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

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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.”

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

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

“(a) That the Prospective Adoptive Parents be given the said child in Adoption and be declared as parents and has all parental legal rights, Privileges and responsibilities over the said minor.

(b) 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.

(c) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Ishanvi Banerjee born on 23/12/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Shrija to “Ishanvi Banerjee”

born on 23/12/2022.

25. The Judge's Order is also accepted and separately signed.

26. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the Adopted Child's name. They also undertake not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipt to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

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

28. There shall be no orders as to costs.

[R.I. CHAGLA, J.]