

Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
2024.02.08
15:05:25
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 5 OF 2024
WITH
JUDGE'S ORDER NO. 19 OF 2024

Bal Asha Trust Through Sunil Kumar Arora ...**Petitioner**

And

Ms. Christine Frederique Marie Belmonte ... **Proposed Adopters**

Mr. R.K.L. Kapoor, i/by Rakesh K. L. Kapoor & Co. for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 1 February 2024

ORDER :

1. This Foreign Adoption Petition is filed by the Petitioner and Proposed Adopter seeking adoption of the female minor Noorjaha (“**the said female minor**”) born on or about 24th March 2013. The said female minor was found abandoned by Sion Police Station, Mumbai on 10/03/2022 and produced before the Child

Welfare Committee (CWC), Mumbai City-I on 11th March 2022 and the said female minor's temporary custody was given to Shraddhanand Mahilashram, Matunga, Mumbai on 11th March 2022. On 14th March 2022, the said female minor was transferred to the Petitioner institution by the said CWC under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (**"the said Act"**). The said Transfer Order and Admission Order of CWC have been placed on record at page Nos.18-19 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 Noorjaha "Legally Free for Adoption" on 19th October 2022. The Free for adoption Certificate have been placed on record at page Nos. 16 to 17 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 24th July 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 has been placed on record at Page No. 27 to the Petition.

4. The undertaking/affidavit by the Petitioner institution has been placed on record at page Nos. 21-26 to the Petition.

5. The Prospective Adoptive Parent is a Spinster of French Nationality, residing at Chasselay, France aged about 52 years with no biological children. However, she has one adopted son now aged about 14 years (Date of Birth:- 6th October 2009) from Mizoram, India. His Adoption Order, Birth Certificate, Consent Letter, Health and Follow-up/Progress Report have been placed on record at page Nos. 34-59 to the Petition.

6. The Prospective Adoptive Parent's Family Photograph and Passport copy have been placed on record at page Nos. 28-31 to the Petition.

7. The Medical report dated 30th October 2023 of the Prospective Adoptive Parent is on record and it states that she is in satisfactory health; no clinical signs detected to date contraindicating adoption. Her HIV and HBsAg test report certifies the case as Negative. These reports have been placed on record at Page Nos. 60-64 to the Petition.

8. The Prospective Adoptive Parent is working as a Consultant with BNP Paribas Bank, SA since 24th May 2004 and her gross yearly pay is 49,586.28 Euros. Her Employment Certificate and Income Tax Certificate have been placed on record at page Nos. 65-70 to the Petition.

9. The Supportive financial documents and proof of residence of the Prospective Adoptive Parent have been placed on record at page Nos. 71-80 to the Petition.

10. The Childcare Arrangements statement of the Prospective Adoptive Parent has been placed on record at page No. 81 to the Petition.

11. The Home Study Reports dated 19th May 2020 and 27th February 2023 by the authorities of "Les Enfants de l' Esperance" France have found the Prospective Adoptive Parent suitable for adopting a child. The said Home Study Reports have been placed on record at page Nos. 82-97 to the Petition.

12. The Psychological Evaluation Report of the Prospective

Adoptive Parent dated 20th January 2020 by Berengere Doyen, Psychologist is on record at page Nos. 98-100 and the Report has found the Prospective Adoptive Parent suitable for adopting a second child.

13. The Permission of the Receiving Country as per Article 5/17 of the Hague Adoption Convention has been placed on record at page Nos. 101-106A to the Petition.

14. The Child Security undertaking dated 10th January 2020 by the Prospective Adoptive Parent's sister and brother-in-law residing at Lyon, France to look after the said female minor in case of any mishap to the Prospective Adoptive Parent has been placed on record at page Nos. 126-128 to the Petition.

15. The Medical Examination Report of the said female minor dated 4th November 2022 states "Health Status: Normal child. Over all observation of the child: Noorjaha is a pleasant girl. She is in good physical and mental health and studies in 2nd Std in Maratha Primary School". The Prospective Adoptive Parent has countersigned the said Report which has been placed on record at page Nos. 132-

139 to the Petition.

16. The Report of Psychological Testing dated 1st September 2023 of the said female minor is on record at page Nos. 140-141 to the Petition. The said Report states that she has Average Intellectual functioning. The Prospective Adoptive Parent has countersigned this Report.

17. The H.I.V. Report of the said female minor dated 14th June 2023 certifies the case as Non Reactive. This report is on record at page No. 144 to the Petition.

18. The Post Card Size Photograph of the said female minor has been placed on record at page No. 145 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parent desires that the said female minor 'Noorjaha' be renamed as "Valentine Camille Noorjaha Belmonte".

20. The declaration of consent and willingness of the Prospective Adoptive Parent is on record and it states that she is

willing to adopt the said female minor child Noorjaha born on 24th March 2013. She further undertakes that she will allow personal visits by the representative of the Authorized Foreign Adoption Agency (AFAA) during post-adoption follow up as required under the Adoption Regulations. This declaration has been placed on record at page Nos. 146-149 to the Petition.

21. The undertaking dated 20th March 2023 by the Authorized Foreign Adoption Agency (AFAA) "Les Enfants de l'Esperance" France to provide follow-up reports of the child and make alternative arrangements in case of disruption of the adoptive family has been placed on record at page Nos. 150 to the Petition.

22. The Power of Attorney dated 22 February 2023 duly executed by the Proposed Adopter in favour of the Petitioner institution is on record at page Nos. 151-154 to the Petition.

23. 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 May 2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 9th January 2024, which is taken on record and marked “X” for identification.

25. Having considered the material on record as well as the Report/Representation dated 9th January 2024 of the Scrutiny Officer 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.

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 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."*

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

28. In these circumstances, the Petition is allowed in terms of prayer clause (a) to (e) to the Petition, which reads thus:-

(a) For the Adoption of the proposed minor Valentine Camille Noorjaha Belmonte born on 24/03/2013 by the proposed adopter under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopter as Adoptive Parent of the said minor and having all parental rights, privileges and responsibilities over the said female minor now in the care and custody Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai – 400 011.

(c) That the proposed adopter be allowed to change the name of the minor 'Noorjaha' to "Valentine Camille Noorjaha Belmonte".

(d) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Valentine Camille Noorjaha Belmonte born on 24/03/2013 and showing the proposed adopter as Parent.

(e) That the Proposed Adopter may be granted leave to remove the said minor Zara Lynn Nikita Hollister from the jurisdiction of this Hon'ble Court and to take the said minor to France or wherever they may reside in future.

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

30. It is directed that the Petitioner Institution shall obtain a

further undertaking from the Adoptive Parent that she shall not give the said female minor 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. No order as to costs.

[R.I. CHAGLA J.]