

Manoj Wakle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO.14 OF 2024
WITH
JUDGE'S ORDER NO.85 OF 2024
IN
FOREIGN ADOPTION PETITION NO.14 OF 2024

Maharashtra State Women's Council Adoption ...Petitioner
Group

And

Mr. Daniele Cicuffoletti and
Mrs. Giovanna Luciana De Giorgio

...Proposed
Adoptive Parents

Ms. Dipal Sanjanwala Mehta for the Petitioner.

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

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

CORAM : R.I. CHAGLA J

DATE : 12th JUNE, 2024

ORDER :

1. By this Foreign Adoption Petition, The Petitioner and the Proposed Adoptive Parents have sought adoption of the male minor Pritam ("the said male minor") born on 30th December, 2020. The

said male minor was found abandoned by the Agripada Police Station, Mumbai on 5th April, 2021 and admitted to Asha Sadan Balgruh on the same day for care and protection. On 29th December, 2021, the Child Welfare Committee (CWC), Mumbai City-II transferred the said male minor to the Petitioner institution under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 for future rehabilitation. The Transfer Order of the CWC, Mumbai City - II is on record at page No.145 to the Petition.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the Child Welfare Committee, Mumbai City declared the said male minor “Legally Free for Adoption” on 13th April, 2023. The Free for Adoption Certificate is on record at Page Nos. 147-149 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 22nd March, 2024 to this adoption as per Adoption Regulations 2022 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.152 to the Petition.

4. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of the said male minor is on record at Page Nos.139-144 to the Petition.

5. The Prospective Adoptive Parents are Italian Nationals, residing at Terni, Italy aged about 44 and 45 years respectively. They have been married for the past 05 years (30th May, 2019) with no biological children.

6. The Motivation Letter of the Prospective Adoptive Parents is on record at page Nos. 20-29 to the Petition.

7. The Prospective Adoptive Parents Passport copies and joint Photograph are on record at page Nos. 61-72 & 129-138 to the Petition.

8. The Medical Report dated 11th December, 2023 of the Prospective Adoptive Parents states, “That the health of the prospective adoptive parents do not in any way disqualify them from parenting a child”. Their HIV and Hepatitis B test reports certify the case as Negative. These reports are on record at Page Nos. 103-122 to the Petition.

9. The Prospective Adoptive Father is a Practicing Lawyer since 2007 and his gross annual income for the Tax Year 2022 was

Euros 36,396. His Income/Employment Certificate is on record at page Nos. 236-238 to the Petition.

10. The Prospective Adoptive Mother is working as a Teacher with Ministry of Education and Merit, “A Ciuffelli” Comprehensive Institute Massa Martana, Italy since 01st September, 2021 and her gross annual income is of Euros 24,419. Her Income and Employment Certificate is on record at page Nos. 242-244 to the Petition.

11. Ms. Dipal Mehta, appearing counsel for the Petitioner and Proposed Adoptive Parents has tendered a Compilation of Documents which include the Proposed Adoptive Father’s Degree Certificate; the Proposed Adoptive Father’s declaration of yearly income of 2023 and the Proposed Adoptive Mother’s declaration of yearly income of 2023 which compilation is taken on record and marked ‘X’ for identification.

12. The Self-declaration of Financial Assets and Property Tax Certificates and Supportive Financial Documents are on record at page Nos. 215-235 & 248-253 to the Petition.

13. The childcare arrangement plan undertaking by the Prospective Adoptive Parents is on record at page Nos. 254-259 to the Petition.

14. The Home Study Reports dated 21st March, 2023 by the authorities of “Associazione Lo Scoiattolo ONLUS” Italy has found the Prospective Adoptive Parents suitable for adopting a child. This report is on record at page Nos. 179-196 to the Petition.

15. The Psychological Evaluation Report dated 31st October, 2022 of the Licensed Psychologist De Nicola Viviana has found the Prospective Adoptive Parents suitable for adopting a child. The said report is on record at page Nos. 198-202 to the Petition.

16. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 209-214 to the Petition.

17. The child Security undertaking dated 07th December, 2023 of the Prospective Adoptive Mother’s sister and brother-in-law residing at Bologna, Italy to take care of the said male minor in case of any unforeseen mishap to the Prospective Adoptive Parents is on record at page Nos. 260-268 to the Petition.

18. Medical Examination Report of the said male minor dated 26th July, 2023 states, “Health Status: Special Needs. Overall observation of the child: This child has had several illnesses and hospitalizations. Owing to mild developmental delay & Dysmorphic

facial features, he has been extensively investigated with no conclusive result. At present, he is doing well.” The Prospective Adoptive Parents have countersigned this report, which is on record at page Nos. 159-172 to the Petition.

19. The I. Q. Report of the said male minor dated 14th June, 2023 states, “Based on the VSMS, Pritam gains a social quotient of 70 points, which places him in low average range of social functioning”. The Prospective Adoptive Parents have countersigned this report which is on record at page Nos.173-175 to the Petition.

20. The H.I.V. report of the said male minor dated 02nd June, 2023 certifies the case as Non-Reactive. This report is on record at page No.177 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No. 178 to the Petition.

21. As regards the change of name, the Proposed Adopters desire that the said male minor ‘Pritam’ be renamed as “Pritam Ciuffoletti”.

22. The Declaration of consent and undertaking of Prospective Adoptive Parents states that they are willing to adopt the said male minor. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption

Agency or the Concerned Government Department for follow up of the progress of the child as required under the Adoption Regulations. This declaration/undertaking is on record at Page Nos. 281-292 to the Petition.

23. The undertaking dated 22nd November, 2023 of the Authorized Foreign Adoption Agency (AFAA) “Associazione Lo Scoiattolo ONLUS” Italy for furnishing post adoption follow-up reports of the said male minor child and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos. 293-294 to the Petition.

24. The copy of General Power of Attorney dated 19th December, 2023 duly executed by the Prospective Adoptive Parents in favour the Petitioner institution is on record at page Nos. 295-303 to the Petition.

25. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 05th May, 2025.

26. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation from the Indian Council of Social Welfare dated 08th June, 2024 which is taken on record and marked ‘X’ for

identification.

27. Having considered the material on record as well as the Report of the Scrutiny Officer which is marked 'X', for identification, I am of the view that it would be in the interest of the said male minor child that he is adopted by the Proposed Adopters.

28. 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;

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(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.”*

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

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

“(a) This Hon'ble Court may be pleased to appoint the Proposed Adoptive Parents as the parents of the male minor, Pritam now in the care of the Maharashtra State

*Women's Council Adoption Group, Asha Sadan Balgruh,
Asha Sadan Marg, Umerkhadi, Mumbai- 400 009,*

(b) That the Proposed Adoptive Parents be allowed to change the name of the minor, from 'Pritam' to 'Pritam Ciuffoletti',

(c) That the Proposed Adoptive Parents may be granted leave to remove the aforesaid child, Pritam @ Pritam Ciuffoletti' the jurisdiction of this Hon'ble Court and to take the minor out of India along with them, to their home i.e. wherever they may require him to,

(d) That the Petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth Certificate of male minor 'Pritam Ciuffoletti' showing the names of the Proposed Adoptive Parents as his parents,

(e) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor 'Pritam Ciuffoletti' within five working days from the date of application of the Petitioner, as per the provisions of sub-regulation 15 of the Adoption Regulations 18 and regulation 36,

(f) The concerned Regional Passport Office may be directed to issue Passport for the said 'Pritam Ciuffoletti' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38."

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

32. It is directed that the Petitioner shall obtain a further undertaking from the Adoptive Parents that they shall not give the said male 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.

33. The present Foreign Adoption Petition is accordingly, disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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