

Gautam (“**the said male minor**”) born on 29th November 2022. The biological mother had surrendered the said male minor before the Child Welfare Committee, (**CWC**), Mumbai City-II on 6th December 2022, and the said male minor was admitted to the Petitioner Institution on the same day. On 6th December 2022 through its order, the said CWC recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The admission order of the CWC is on record at page No. 111 to the Petition.

2. After making due inquiry under section 38 of the said Act the CWC, Mumbai City-I declared the said male minor “Legally Free for Adoption” on 16th March 2024. The Free for adoption Certificate is on record at page Nos. 112-114 to the Petition.

3. The Central Adoption Resource Authority (**CARA**) New Delhi has issued its No Objection Certificate dated 2nd August 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. 118 to the Petition.

4. Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos. 105-110 to the Petition.

5. The Prospective Adoptive Parents are Italian Nationals, residing at Parabiago, Italy aged about 44 and 42 years respectively. They have been married for the past 7 years (25th May 2017) with no biological children.

6. The Prospective Adoptive Parents joint photograph and copies of Passport are on record at Page Nos.42-47 and 102 to the Petition.

7. The Motivation Letter from the Prospective Adoptive Parents is on record at page Nos. 20-23 to the Petition.

8. The Medical Reports dated 25th March 2022 of the Prospective Adoptive Parents states that the health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway. Their HIV and HBsAg test reports certify the case as negative. These reports are on record at page Nos. 76-99 to the Petition.

9. The Prospective Adoptive Father is working as a P.M.O. Senior with Reti Joint Stock Company since 1st April 2019 and his total income for the year 2023 is Euro 36,486. His salary slips, employment certificate and income certification from Italian Revenue Agency are on record at Page Nos. 177-179, 210-211 and 202-203 to the Petition.

10. The Prospective Adoptive Mother is working as a Doctor with Territorial Local Sanitary Concern (Asst) Rhodense, Milan, Italy since 8th February 2018 and her total income for the year 2023 is of Euro 79,045. Her pay slips, employment certificate and income certification from Italian Revenue Agency are on record at page Nos.180-186, 214-222 and 206-207 to the Petition.

11. The Declaration of assets and Financial status and Income Tax Certificate of the Prospective Adoptive Parents are on record at Page Nos.176 and 187-201 to the Petition.

12. The child care arrangement plan undertaken by the Prospective Adoptive Parents is on record at Page Nos.232-234 to the Petition.

13. The Home Study Report dated 2nd October 2023 by the

authorities of “Mehala Families for Children”, Italy is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at Page Nos.146-158 to the Petition.

14. The Psychological Evaluation report of Dr. Marco Porta, Psychologist dated 3rd October 2023 states that the Prospective Adoptive Parents appear as sensitive and balanced people, with a very solid relationship. Their reflections are adequate and they are able to put themselves in the shoes of the adoptive parents, imaging the needs and difficulties of a child, with a traumatic experience of abandonment. The said report is on record at page No.159-162 to the Petition.

15. The permission of the receiving country as per Article 5/17 of the Hague Convention is on record at page Nos.172-175 to the Petition.

16. The child security undertaking dated 17th July 2024 of the Prospective Adoptive Father’s sister-in-law residing at Palermo, Italy to take care of the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 235-237 to the Petition.

17. The Medical Examination Report of the said male minor dated 30th January 2024 states “Health Status : Special Needs. Overall observation of the child: Global developmental delay with Microcephaly with Congenital Heard disease with dysmorphic facies.” The Prospective Adoptive Parents have countersigned the said report, which is on record at page Nos. 125-143 to the petition.

18. The HIV Report of the said male minor dated 20th January 2024 certifies the case as Non-Reactive. This Report is on record at page No. 144 to the Petition. The post card size photograph of the said male minor is on record at page 145 to the petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor “Gautam” be renamed as “Gautam Bumbalo”.

20. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be adopt the said male minor. They further undertakes that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency for follow up of the progress off the child as required under the Adoption Regulations. The said Declaration is on record at page No. 254-261 to the Petition.

21. The undertakings dated 9th May 2024 of the Authorized Foreign Adoption Agency (AFAA) “Mehala Child & Family Association” Italy to provide follow-up report of the child and make alternative arrangement in case of disruption of the adoptive family is on record at Page Nos.268-272 to the Petition.

22. Copy of Power of Attorney dated 22nd May 2024 duly signed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at Page Nos.268-272 to the Petition.

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

24. Ms. Vandana Chindhakar, the Scrutiny Officer present at today’s hearing has tendered the Report of Mr. O. Hareendran, Scrutiny Officer has tendered a Report/ Representation of Indian Council of Social Welfare dated 30th September 2024. The Report / Representation is taken on record and marked “**X**” for identification.

25. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 30th September 2024, which is marked X, 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.

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:

(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 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, Gautam 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 'Gautam' to

'Gautam Bambalo'.

(c) That the proposed adoptive parents may be granted leave to remove the aforesaid child, Gautam @ Gautam Bambalo from 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 'Gautam Bambalo' 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 male minor 'Gautam Bambalo' 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 'Gautam Bambalo' within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38.

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

30. It is directed that the Petitioner institution shall obtain further undertaking from the Adoptive Parents that they shall not give the said male minor for further adoption without the prior permission of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

31. The present Foreign Adoption Petition is accordingly disposed of. There shall be no order as to costs.

[R. I. CHAGLA J.]

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