

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

FOREIGN ADOPTION PETITION NO. 29 OF 2024

WITH
JUDGE'S ORDER NO. 157 OF 2024

WITH
JUDGE'S ORDER NO. 156 OF 2024

WITH
JUDGE'S ORDER NO. 153 OF 2024

IN
FOREIGN ADOPTION PETITION NO. 29 OF 2024

Janani Ashish Charitable Trust

...Petitioner

And.

1. Mr. Arijeet Kaushik Gattu
2. Mrs. Aartee Deshpande

... Proposed Adoptive
Parents.

Mr. Rakesh K. L. Kapoor i/b. Ms. Rakesh K. L. Kapoor & Co., for the
Petitioner.

Mr. O. Hareendram, Scrutiny Officer-ICSW, present.

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

CORAM : R. I. CHAGLA, J.

DATE : 04 DECEMBER 2024

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Proposed Adopters have sought adoption of female minors (siblings) namely, Shaboo, born on 15th June 2015, Ayesha born on 30th July 2016 and Fatima, born on 5th June 2019 (collectively referred to as '**the said female minors** '). The said female minors were found abandoned by the Ulhasnagar Police Station, Ulhasnagar, District Thane on 27th June 2022. Subsequently, the said female minors have been produced before the Child Welfare Committee (CWC), Thane on 27th June 2022 and admitted to the Petitioner institution on the same day as per the order of the said CWC dated 27th June 2022 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('**the said Act**'). The admission orders of the CWC are on record at page Nos. 19-21A to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Thane has declared the said female minors "**Free for Adoption**" on 17th October 2023. The Free for Adoption Certificate is on record at page Nos. 17-18 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 17th October 2024 to this adoption as per the 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 is on record at page No. 30 to the Petition.

4. The undertaking/affidavit of the Petitioner Institution is on record at page Nos. 25-29 to the Petition.

5. The Prospective Adoptive Father is an American National of Indian Origin (OCI Card holder) and the Prospective Adoptive Mother is an Indian National, both residing at Massachusetts, U.S.A. They are aged about 46 and 43 years respectively and have been married for the past 16 years (10th March 2008) with no biological children.

6. The Health Reports dated 19th September 2024 of the Prospective Adoptive Parents states that both are in excellent physical and mental health and capable of caring for a child. Their HIV and Hepatitis B Test Reports certify the case as Non-Reactive. These Reports are on record at page Nos. 51-64 to the Petition.

7. The Prospective Adoptive Father is working as an Assistant in Medicine at Massachusetts General Hospital and an Instructor in Medicine at Harvard Medical School since

September-2023 and his annual gross salary is \$120,000. His Employment and Income Certificate is on record at page Nos. 65-67 to the Petition.

8. The Prospective Adoptive Mother is working as a Physician Staff Hospitalist at Cambridge Health Alliance since 27th October 2019 and her hourly rate of pay is \$115.39. Her Employment and Income certificate is on record at page Nos. 68-70 to the Petition.

9. The Income Tax Certificates and Proof of Residence are on record at page Nos. 71-77 to the Petition.

10. The childcare arrangement plan declaration by the Prospective Adoptive Parents is on record at page Nos. 78-79 to the Petition.

11. The Home Study Report dated 26th May 2024 by the authorities of "Wide Horizons For Children", Massachusetts, U.S.A. has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at page Nos. 80-95 to the Petition.

12. The Psychological Evaluation Report dated

25th September 2023 by the Licensed Clinical Psychologist Liz Donalds is on record at page Nos. 96-102 to the Petition. The Report has found that the Prospective Adoptive Parents are in a favourable situation to carry out the adoption process.

13. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 103-117 to the Petition.

14. The child security undertaking dated 19th November 2024 given by the Prospective Adoptive Mother's younger sister and brother-in-law residing at Pune, Maharashtra to look after the said female minors in case of any unforeseen mishap to the Prospective Adoptive Parents is on record at page Nos. 130-133 to the Petition.

15. The Medical Examination Report dated 24th November 2023 of the female minor Shabbo is on record at page Nos. 138-144 to the Petition. It states that she is a happy and content 8^{1/2} year old girl. Her behavioural skills and social interactions are age appropriate. Her Psychological Test Report dated 18th December 2023 is on record at page Nos. 145-147 to the Petition.

It states her I.Q. derived falls in the Average Range suggesting average intellectual capacity. Verbal I.Q. falls in Average Range and Performance I.Q. falls in Average Range. The Prospective Adoptive Parents have countersigned these Reports.

16. The Medical Examination Report dated 24th November 2023 of the female minor Ayesha is on record at page Nos. 152-158 to the Petition. It states that she is a happy and content 6^{1/2} years old girl. Her development and social skills are age appropriate. Her Psychological Test Report dated 18th December, 2023 is on record at page Nos. 159-162 to the Petition. It states her I.Q. derived falls in the Average Range suggesting average intellectual capacity. Verbal I.Q. falls in Average Range and Performance I.Q. falls in Average Range. The Prospective Adoptive Parents have countersigned these Reports.

17. The Medical Examination Report dated 24th November 2023 of the female minor Fatima is on record at page Nos. 167-173 to the Petition. It states that she is a 4^{1/2} year old happy and content girl. Her development and social skills are age appropriate. Her Psychological Test Report dated 18th December 2023 is on record at page Nos. 174-176 to the Petition. It states her Social Quotient is

found to be 108 indicating that the child seems to have average social intelligence. It indicates the child seems to be socially slightly weak as compared to other children of her age. The prospective adoptive parents have countersigned these reports.

18. The HIV Report of the said female minors dated 15th November 2024 certifies the case as Non-Reactive. These Reports are on record at page Nos. 184-186 to the Petition.

19. The Post Card size photograph of the said female minors is on record page Nos. 187-189 to the Petition.

20. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Shabbo' be renamed as "Ameya Gattu", the said female minor 'Ayesha' be renamed as "Abhaya Gattu" and the said female minor 'Fatima' be renamed as "Aditi Gattu" respectively.

21. The Declaration of willingness and undertaking of the Prospective Adoptive Parents states that they are willing to adopt the said female minors. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency (AFAA) for follow-up of the progress of the children

as required under the Adoption Regulations.

22. The undertaking dated 18th June 2024 of the Authorized Foreign Adoption Agency (AFAA) “International Adoption Net”, Colorado, U.S.A. for furnishing post adoption follow-up reports of the children and make alternative arrangement in case of disruption of the adoptive family is on record at page Nos. 193-195 to the Petition.

23. The General Power of Attorney dated 13th September 2024 duly executed by the Proposed Adopters in favour of the Petitioner Institution is on record at page Nos. 196-197 to the Petition.

24. The Petitioner Institution’s recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid up to 12th April 2026.

25. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation of Indian Council of Social Welfare dated 2nd December 2024 which is taken on record and marked “X” for identification.

26. Having considered the material on record as well as the

report of the Scrutiny Officer marked “X”, I am of the view that it would be in the interest of the said female minors that they are adopted by the Proposed 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 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 the present Petition.

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

- (a) *For the Adoption of proposed female minors Ameya Gattu born on 15/06/2015, Abhaya Gattu, born on 30/07/2016 and Aditi Gattu, born on 05/06/2019 respectively by the Proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.*
- (b) *For declaring the Proposed Adopters as Adoptive Parents of the female minors Ameya Gattu, Abhaya Gattu and Aditi Gattu and having all parental rights, privileges and responsibilities over the said minors, now in the care and custody of the Petitioner institution Janani Ashish Charitable Trust, Dombivali, Thane.*
- (c) *That the proposed adopters be allowed to change the name of the said female minors Shabbo to Ameya Gattu, Ayesha to Abhaya Gattu and Fatima to Aditi Gattu*

(d) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said female minors Ameya Gattu born on 15/06/2015, Abhaya Gattu, born on 30/07/2016 and Aditi Gattu, born on 05/06/2019 and stating thereon that the Proposed Adopters are Parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said female minors from the jurisdiction of this Hon'ble Court and to take the said minors to U.S.A. or wherever they may reside in future.

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

31. It is directed that the Petitioner should obtain further undertaking from the Adoptive Parents that they should not give the said female minors for further adoption without prior leave of this Court. Once this undertaking is obtained, the same shall be filed on record of this Court.

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

[R. I. CHAGLA J.]

Privacy Warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.