

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

INDIAN ADOPTION PETITION NO. 6 OF 2024

WITH

JUDGE'S ORDER NO. 11 OF 2024

St. Catherine's Home, part of St. Catherine's Society. ...Petitioner

And.

Dharmendra Gupta & Mrs. Pradnya Gupta ... Prospective Adoptive Parents

Mr. Rakesh Kapoor, i/by M/s. 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. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of female minor Gayatri (“the said female minor”) born on 10th March 2019. The said female minor was found abandoned by the Goregaon Vanrai Police Station on 10th March 2022 and admitted to the Petitioner-Institution

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on the same day as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District dated 10th March 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The Admission Order of the CWC has been placed on record at page No. 22 to the Petition.

2. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai Suburban District declared the said female minor child Gayatri “Legally Free for Adoption” as on 7th October 2022. The Free for Adoption order has been placed on record at page No. 21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals presently residing at Bengaluru, Karnataka, aged about 43 years having been married for the past 13 years (5th July 2010) with no biological children.

4. The Motivation Letter of the Prospective Adoptive Parents has been placed on record at page No. 32 to the Petition.

5. The Minutes of Adoption Committee meeting held on 10th February 2023 has been placed on record at page Nos. 19-20 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor child has been placed on record at page Nos. 91-95 to the Petition.

7. The Medical Report of the Prospective Adoptive Parents dated 23rd November 2023 states, "Present Health Status: Nothing Significant. Remarks of Physician: They are physically fit for adoption". Their HIV I & II and Hepatitis B test Reports certify the case as Non-reactive. These Reports have been placed on record at page Nos. 26-31 to the Petition.

8. The Prospective Adoptive Father is working as a Senior Consultant with HCL Tech Ltd., Bengaluru since 1st April 2016 and his monthly (June-2023) gross salary is Rs. 1,97,070.58/-. His pay slip and Tax returns have been placed on record at page Nos. 40-44

to the Petition.

9. The Prospective Adoptive Mother is working as a Senior Technical Lead with HCL Tech Ltd., Bengaluru since 8th December 2021 and her monthly (June-2023) gross salary is Rs. 91.353.17/-. Her pay slip has been placed on record at page No. 45 to the Petition.

10. The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents have been placed on record at page Nos. 33-35 and 46-55 to the Petition.

11. The Child Care Plan Declaration of the Prospective Adoptive Mother has been placed on record at page No. 56 to the Petition.

12. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos. 57-65 to the Petition.

13. The Home Study Report Part II : Assessment Report dated 27th August 2022 of the Social Worker of Specialized Adoption

Agency “Shishu Mandir Children’s Home”, Bengaluru has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Report has been placed on record at page Nos. 66-69 to the Petition.

14. The child security undertaking dated 10th February 2023 given by the Prospective Adoptive Mother’s brother and sister-in-law residing at Nashik, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page Nos. 75-76 to the Petition.

15. The Medical Examination Report of the said female minor dated 24th November 2022 states, “Health status: Normal. She has achieved all the expected milestones for her age. She has a Squint in her right eye and her ophthalmological evaluation for the same is pending”. The Prospective Adoptive Parents have countersigned the said Report. The said Report has been placed on record at page Nos. 80-87 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor “Gayatri” be renamed as

“Savya Gupta”.

17. The HIV Report of the said female minor dated 23rd November 2023 certifies the case as Non Reactive. The said Report has been placed on record at page No. 89 to the Petition.

18. The post card size photograph of the said female minor has been placed on record at page No. 90 to the Petition.

19. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor child Gayatri born on 10th March 2019. This declaration has been placed on record at page Nos. 36-37 to the Petition.

20. The Pre-adoption foster care undertaking dated 8th February 2023 has been placed on record at page Nos. 38-39 to the Petition.

21. The undertaking dated 7th February 2023 given by the

authorities of the Specialized Adoption Agency “Shishu Mandir Children’s Home”, Bengaluru, Karnataka for furnishing post-adoption follow-up reports has been placed on record at page No. 96 to the Petition.

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

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 22nd December 2023, which is taken on record and marked “X” for identification.

24. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 22nd December 2023, which is marked X, I am of the view that it would be in the interest of the said female minor, if she is adopted by the Proposed Adopters.

25. 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.”*

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

27. In the 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 Savya Gupta in Adoption and be declared as parents having 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 Savya Gupta 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 Savya Gupta, born on 10/03/2019 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

d) That the Prospective Adoptive Parent be allowed to change the name of the minor from ‘Gayatri’ to “Savya Gupta”.”

28. There is an undertaking of the Adoptive Parents in the Judge’s order to invest a sum of Rs. 1,00,000/- in the name of the Adopted Child. They also further undertake not to withdraw this investment till the Adopted Child attains majority. They agree to hand over the investment receipts to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking given to this Court.

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

30. The Indian Adoption Petition is accordingly disposed of. No order as to costs.

[R.I. CHAGLA J.]