

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

INDIAN ADOPTION PETITION NO. 13 OF 2024

WITH

JUDGE'S ORDER NO. 20 OF 2024

Indian Association for Promotion of Adoption and Child Welfare ...Petitioner

And.

Kundan M. Kasliwal & Priyanka K. Kasliwal ... Proposed Adopters

Ms. Shweta Prabhu, 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 Proposed Adopters have sought adoption of female minor Uma (“**the said female minor**”) born on 8th May 2023. The biological mother had surrendered the said female minor before the Child Welfare Committee, (CWC), Mumbai City-II on 11th May 2023 and the child’s

custody was given to the Petitioner Institution on the same day as per the order of the CWC dated 11th May 2023 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. The CWC order has been placed on record at page No 54 to the Petition.

2. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City-II declared the said female minor child Uma “Legally Free for Adoption” as on 1st September, 2023. The Free for Adoption order has been placed on record at page Nos. 56-56a to the Petition.

3. The Prospective Adoptive Parents are Indian nationals presently residing at Aurangabad, Maharashtra, aged about 38 and 32 years respectively, having been married for the past 13 years (15th July 2010) with no biological children.

4. The Motivation Letter of the Prospective Adoptive parents is on record at page No. 26 to the Petition.

5. 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. 57-61 to the Petition.

6. The Minutes of the Adoption Committee meeting held on 23rd October 2023 and 27th October 2023 have been placed on record at page Nos. 22-25a to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child.

7. The Medical Report of the Prospective Adoptive Parents dated 13th September 2023 states, "No any deformity/illness". Their HIV and HBsAg test Reports certify the case as Negative. These Reports have been place on record at page Nos. 27-53 to the Petition.

8. The Prospective Adoptive Father is working as a Conductor with MSRTC, Gangapur, Aurangabad since 2010 and his gross salary for the Assessment year 2023-24 is Rs. 3,91,502/-. The Form No. 16 for the Assessment year 2023-24 has been placed on record at page Nos. 77-82 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The copies of Aadhar, supportive financial documents and proof of residence have been placed on record at page Nos. 75-76 and 83-89 to the Petition.

10. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos. 91-99 to the Petition.

11. The Home Study Report Part II : Assessment Reports dated 13th October 2020 and 7th October 2020 by the Social Worker of Specialized Adoption Agency “Bharatiya Samaj Seva Kendra” Aurangabad are on record and the Reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports have been placed on record at page Nos. 101-121 to the Petition.

12. The child security undertaking dated 16th December 2023 given by the Prospective Adoptive Father’s cousin brother and sister-in-law residing at Gangapur, Aurangabad 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. 142-143 to the

Petition.

13. The Pre-adoption foster care undertaking dated 31st October, 2023 has been placed on record at page Nos. 48-50 to the Petition.

14. The Medical Examination Report of the said female minor dated 11th September 2023 states, "Health status of the child: Normal. Overall Observation of the Child: Uma is an active and playful child". The Prospective Adoptive Parents have countersigned the said Report. The said Report has been placed on record at page Nos. 129-139 to the Petition.

15. The HIV Report of the said female minor dated 6th January 2024 certifies the case as Non Reactive. The said Report has been placed on record at page No. 141 to the Petition.

16. The post card size photograph of the said female minor has been placed on record at page no 20 to the Petition.

17. As regards the change of name, the Prospective Adoptive

Parents desire that the said female minor “UMA” be renamed as “Vidya Kundan Kasliwal”.

18. The 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 Uma born on 8th May 2023. This declaration has been placed on record at page Nos. 62-63 to the Petition.

19. The undertaking dated 12th December 2023 of the Specialized Adoption Agency “Bharatiya Samaj Seva Kendra”, Aurangabad for furnishing post adoption follow-up reports has been placed on record at page No. 90 to the Petition.

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

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 29th January 2024, which is taken on record and marked “X” for

identification.

22. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 29th January 2024, 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.

23. 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.”

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

25. In the circumstances, the Petition is allowed in terms of prayer clauses (a) to (e) of the Petition which read thus;

a) For adoption of the proposed female minor baby Uma @ Vidya K. Kasliwal born on 8th May 2023 under Juvenile Justice Act.

b) This Hon'ble Court be pleased to declare the Proposed Adopters as Adoptive parents of Uma @ Vidya K. Kasliwal (Female Minor) and further order that they shall have all parental legal rights, privileges and responsibility over the said minor.

c) That the Prospective Adoptive Parents may be granted permission to change the name of minor Uma to Vidya Kundan Kasliwal.

d) This Hon'ble Court be pleased to further order the Brihan Mumbai Corporation to issue individual birth certificate in the name of Vidya Kundan Kasliwal, the said minor stating the Proposed Adopters as parents. The Proposed Adopters may also be granted leave to apply to the Passport office or any other authority for the same.

e) This Hon'ble Court be pleased to grant leave to remove the said minor outside the Jurisdiction of this Hon'ble Court whenever required."

26. 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

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.

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

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

[R.I. CHAGLA J.]