

Manoj Wakle

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

INDIAN ADOPTION PETITION NO. 55 OF 2024
WITH
JUDGE'S ORDER NO.81 OF 2024
IN
INDIAN ADOPTION PETITION NO. 55 OF 2024

Shree Manav Seva Sangh

...Petitioner

And

Mr. Jayant Balasaheb Deshpande And
Mrs. Rupali Jayant Deshpande

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i/by Mrs. Rakesh K. L Kapoor & Co. for the
Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 12th JUNE, 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the female minor
Durva ("the said female minor") born on 29/05/2023. The said

female minor was admitted to the Petitioner institution on 07/06/2023 as per the order of the Child Welfare Committee (CWC), Mumbai City II dated 07/06/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). Thereafter the biological mother executed a Deed of Surrender before the said CWC, Mumbai City-II on 21/06/2023. The Admission Order of the CWC is on record at page No. 22 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said female minor “Legally Free for Adoption” on 22/08/2023. The Free for adoption Certificate is on record at page No. 21 to the Petition.

3. The Prospective Adoptive Parents are Indian Nationals residing at Beed, Maharashtra aged about 43 and 44 years respectively. They have been married for the past 21 years (29/03/2003) with no biological children.

4. The motivation letter from the Prospective Adoptive Parents is on record at page No.34 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 is on record at page Nos.155-159 to the Petition.

6. The Minutes of Adoption Committee Meetings held on 19/01/2024 is on record at page Nos. 19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Health Report dated 02/01/2024 of the Prospective Adoptive Parents states, "They do not have any chronic, contagious or fatal disease on clinical examination and they are fit to adopt a child". Their HIV test reports certify the case as Negative. These reports are on record at page Nos.26-33 to the Petition.

8. The Prospective Adoptive Father is self-employed (Proprietor of Shree Ganesh Traders at Beed) and his income for the Assessment Year 2023-24 is Rs. 4,98,670/-. Income Certificate from Chartered Accountant and Income Tax Returns are on record at page Nos. 43-50 to the Petition.

9. The Prospective Adoptive Mother is self-employed (Proprietor of Rich Events Pvt. Ltd., Beed) and her income for the Assessment Year 2023-24 is Rs. 4,58,760/-. Income Certificate from Chartered Accountant and Income Tax Returns are on record at page Nos. 51-57 to the Petition.

10. The Proof of Residence, (Rental Agreement), and Pan

Card and supportive financial documents are on record at page Nos. 35-38 & 58-83 to the Petition.

11. The Childcare Plan declaration of the Prospective Adoptive Mother is on record at page No. 84 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.85-94 & 110-119 to the Petition.

13. The Home Study Report part II: Assessment report dated 27/07/2020 of the Specialized Adoption Agency “Snehankur Adoption Center”, Ahmednagar and updated report dated 04/09/2023 of the Specialized Adoption Agency “Sulbha Suresh Joshi Shishugruh”, Beed, Maharashtra has found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos.95-109 & 120-128 to the Petition.

14. The child security undertaking dated 03/01/2024 of the Prospective Adoptive Father’s sister and brother-in-law residing at Solapur, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.138-141to the Petition.

15. Medical Examination Report dated 22/01/2024 of the

said female minor states “Health Status: Normal. Overall Observation of the child: She is a happy child”. The Prospective Adoptive Parents have countersigned the said report which is on record at page Nos.145-151 to the Petition.

16. The HIV Report of the said female minor dated 08/06/2023 certifies the case as Negative. This Report is on record at page No. 153 to the Petition.

17. Post Card Size Photograph of the said female minor is on record at page No. 154. to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Durva’ be renamed as “Shreesha Jayant Deshpande”.

19. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of said female minor. This declaration is on record at page No. 39-40 to the Petition.

20. The Pre-adoption foster care undertaking dated 03/01/2024 is on record at page Nos. 41-42 to the Petition.

21. The undertaking dated 01/07/23 of the Specialized Adoption Agency- “Sulbha Suresh Joshi Shishugruh”, Beed,

Maharashtra for furnishing post adoption follow-up report is on record at page No. 160 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 07/03/2024.

23. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation from the Indian Council of Social Welfare (ICSW) dated 09/05/2024 which is taken on record and marked 'X' for identification.

24. Having considered the material on record as well as the Report of the Scrutiny Officer which is marked 'X', I am of the view that it would be in the interest of the said female minor child that 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 these 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 **Shreesha Jayant Deshpande** 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 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 **Shreesha Jayant Deshpande** born on **29/05/2023** and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.*
- (d) That the Prospective Adoptive Parents be allowed to change the name of the minor from ‘Durva’ to **“Shreesha Jayant Deshpande”** born on 29/05/2023.”*

28. In The Judge’s Order there is an undertaking of the

Adoptive Parents to invest the sum of Rs. 1,00,000/- (Rupees One Lakhs only) in the name of the Adopted Child and further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. These undertakings are accepted as undertakings to this Court.

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

30. The present Indian Adoption Petition is accordingly, disposed of.

31. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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