

Sharada

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

INDIAN ADOPTION PETITION NO.63 OF 2024

SHARADA
RANGNATH
WAHULE

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SHARADA RANGNATH
WAHULE

Date: 2024.07.20
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WITH

JUDGE'S ORDER NO.92 OF 2024

IN

INDIAN ADOPTION PETITION NO. 63 OF 2024

St. Catherine's Home Through Authorized
Signatory Sister Cicily A. Chiramal

...Petitioner

And

Ramcharit Ramgajole Singh and Sharmila
Ramcharit Singh

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor & Co, Advocate for the
Petitioner.

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

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

Mr. Ramcharit Ramgajole Singh – Adoptive Father.

Mrs. Sharmila Ramcharit Singh- Adoptive Mother present.

Kum. Riyansh Ramcharit Singh- Minor present in Chamber.

CORAM : R.I. CHAGLA, J.

DATE : 16TH JULY 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Ninad (“**the said male minor**”) born on 02/11/2021. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai Suburban-II on 09/11/2021 and the child’s safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 09/11/2021 under the Provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). 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 Suburban-II declared the said male minor Ninad “Legally Free for Adoption” on 10/01/2022. 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 Pune, aged about 48 and 45 years respectively. They have been married for the past 28 years (16/05/1996) with two biological daughters aged about 26 and 23 years respectively. The biological

daughter's Birth Certificates, Medical Reports and consent letters are on record at page Nos.28-39 to the Petition.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No.54 to the Petition.

5. The Minutes of Adoption Committee Meeting held on 07/02/2022 is on record at page Nos.19-20 to the Petition. It states that the Adoptive Parents are suitable to adopt the said male minor.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos.144-148 to the Petition.

7. The Medical Report dated 02/01/2024 of the Prospective Adoptive Parents are on record and it states, "Both are mentally and physically fit for adoption". Their HIV I & II and Hepatitis B test reports certify the case as Non Reactive. These report are on record at page Nos.40-53 to the Petition.

8. The Prospective Adoptive Father is self employed (Electrical Contractor) and his gross total income for the Assessment Year 2023-24 is of Rs.7,11,409/-. His Income Affidavit and Income Tax Returns are on record at Page Nos.62-75 to the Petition. The Prospective

Adoptive Mother is a Homemaker.

9. The Proof of Residence, copies of Pan Cards, and other supportive financial documents are on record at page Nos.55-57 & 76-100 to the Petition.

10. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos.101-108 to the Petition.

11. The Home Study Part II : Assessment Reports dated 19/03/2024 of the social worker of Specialized Adoption Agency, “Bharatiya Samaj Seva Kendra”, Pune states that the said male minor is placed with the Prospective Adoptive Parents. They are taking good care of the said male minor and he has become nicely attached to all family members and comfortable with them. Considering the bonding between the child and the Prospective Adoptive family and verifying the other aspects, the couple is suitable to adopt the child and recommended them to place the child with them and complete their legalization at the earliest. The said reports are on record at page Nos.109-117 to the Petition.

12. The child security Undertaking dated 05/04/2022 by the

Prospective Adoptive Parent's friends/neighbour residing at Pune to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.125-128 to the Petition.

13. The Medical Examination Report of the said male minor dated 25/01/2022 states, "Health status: Normal. Overall Observation of the child: Ninad has achieved the expected milestones for his age". The Prospective Adoptive Parents have countersigned the said Report which is on record at page Nos.198-104 to the Petition.

14. The HIV Test Report of the said male minor dated 17/11/2021 certifies the case as Negative. This report is on record at page No.142 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.143 to the Petition.

15. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor "Ninad" be renamed as "Riyansh Ramcharit Singh".

16. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said male minor.

The said Declaration is on record at page Nos. 58-59 to the Petition.

17. The Pre-adoption foster care undertaking dated 15/03/2022 is on record at page Nos60-61 to the Petition.

18. The undertaking dated 07/05/2024 given by the Specialized Adoption Agency, “Bharatiya Samaj Seva Kendra”, Pune for furnishing post adoption follow-up reports is on record at page No.149 to the Petition.

19. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 12/07/2024 which is taken on record and marked ‘X’ for identification.

21. Having considered the material on record as well as the Report of the Scrutiny Officer dated 12/07/2024 marked ‘X’, in my view, it would be in the interest of the said male minor child that he is adopted by the Proposed Adopters.

22. 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.”*

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

24. 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 Riyansh Ramcharit Singh 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 male minor Riyansh Ramcharit Singh 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 Riyansh Ramcharit Singh, born on 0211/2021 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 'NINAD' to "Riyansh Ramcharit Singh".

25. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the Adopted Child's name. They also undertake not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipt to the Adopted Child on his becoming a major. These undertakings are accepted as undertakings to this Court.

26. The Judge's Order is also accepted and separately signed.

27. The Indian Adoption Petition is accordingly disposed of.

28. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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