

Sharada

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

INDIAN ADOPTION PETITION NO. 69 OF 2024

WITH

JUDGE'S ORDER NO. 104 OF 2024

IN

INDIAN ADOPTION PETITION NO. 69 OF 2024

Indian Association for Promotion of
Adoption & Child Welfare

...Petitioner

And

Mr. Sachinkumar S. Dole and Mrs.
Ashwini S. Dole

...Proposed Adopter

Ms. Shewta Prabhu, Advocate for the Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 7TH AUGUST 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Proposed Adopter have sought adoption of the female minor Shivani

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(“the said female minor”) born on 03/01/2022. The said female minor was admitted to Asha Sadan, Umerkhadi by the Gavdevi Police on 13/01/2022 for care and protection. On 14/01/2022, the said female minor was produced before the Child Welfare Committee (CWC), Mumbai City-II and was transferred to the Petitioner institution on the same day as per the order of the said CWC dated 14/01/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The CWC Admission order is on record at page Nos.39 & 44 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 04/03/2024. The Free for Adoption Certificate is on record at Page Nos.42-43 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Pimpri, Pune aged about 39 and 38 years respectively. They have been married for the past 11 years (13/02/2013) with no biological children.

4. The Motivation Letter from 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 is on record at page Nos.46-49 to the Petition.

6. The Minutes of Adoption Committee meeting held on 09/05/2024 is on record at page Nos.22-25 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 26/04/2024 states that, "They are medically fit". Their HIV and HBsAg Test Reports certify the case as Non-Reactive. These reports are on record at page Nos.27-38 to the Petition.

8. The Prospective Adoptive father is working as a Professor with Dr. D. Y. Patil Medical College, Pimpri, Pune since 2017 and his total income for the Assessment Year 2023-2024 is Rs/15.65,030/-. His Income Tax Return for the Assessment Year 2023-2024 and Employment Certificate are on record at page Nos.61-61a to the Petition. The Prospective Adoptive mother is a Homemaker.

9. The copies of PAN Card, supportive financial documents and proof of residence are on record at page Nos.59-60 & 62-75 to

the Petition.

10. The Child Care Arrangement Plan Declaration by the Prospective Adoptive Parents is on record at page Nos.115 to the Petition.

11. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.77-84-g to the Petition.

12. The Home Study Part II : Assessment Reports dated 05/12/2019 and 13/10/2022 by the Social Worker of Specialized Adoption Agency “Adhar”, Adoption Center, Nigdi, Pune have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.85-92-g to the Petition.

13. The child security undertaking dated 14/05/2024 given by the Prospective Adoptive father’s brother and sister-in-law residing at Bhusawal, Dist. Jalgaon, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.113-114 to the Petition.

14. The Pre-adoption foster care undertaking dated

14/05/2024 is on record at page Nos.52-53 to the Petition.

15. The Medical Examination Report of the said female minor dated 08/03/2024 states, "Health status of the child: Normal. Overall observation: the child appears as a calm and loving girl. The said female minor is active and playful. Overall the said female minor is a healthy and happy baby". The Proposed Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.99-111 to the Petition.

16. The HIV report of the said female minor dated 20/06/2024 certifies the case as Negative. This report is on record at page No.112 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.20 to the Petition.

17. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Shivani' be renamed as "Sanvi Sachinkumar Dole".

18. The 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 female minor. The said Declaration is on record at page Nos.54-55 to the Petition.

19. The undertaking dated 11/06/2024 by the Specialized Adoption Agency “Adhar”, Adoption Center, Nigdi, Pune for furnishing post adoption follow-up reports is on record at page No.76 to the Petition.

20. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered the Report / Representation from the Indian Council of Social Welfare (ICSW) dated 31/07/2024 which is taken on record and marked ‘X’ for identification.

22. Having considered the material on record as well as the Report of the Scrutiny Officer dated 31/07/2024 marked ‘X’, in my view, it would be in the interest of the said female minor child that she is adopted by the Proposed Adoptive Parents.

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

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Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

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 these 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 Shivani @ Sanvi Sachinkumar Dole born on 03/01/2022 under Juvenile Justice Act*

b) *This Hon’ble Court be pleased to declare the Proposed Adopters as Adoptive parents of Shivani @ Sanvi Sachinkumar Dole (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 Shivani to Sanvi Sachinkumar Dole.*

d) *This Hon’ble Court be pleased to further order the Brihan Mumbai Municipal Corporation to issue individual birth certificate in the name of Sanvi Sachinkumar Dole, 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. 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 name of the Adopted Child. The Adoptive Parents also undertake not to withdraw this investment till the Adopted Child attains majority. The Adoptive Parents agree to handover the investment receipt to the Adopted Child on her becoming a major. These undertakings are accepted as undertaking to this Court.

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

28. The Indian Adoption Petition is accordingly, disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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