

Sharada

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

INDIAN ADOPTION PETITION NO. 74 OF 2024

WITH

JUDGE'S ORDER NO. 109 OF 2024

IN

INDIAN ADOPTION PETITION NO. 74 OF 2024

St. Catherine's Home, Mumbai

...Petitioner

And

Mr. Amol Vasantrao Narayane and Mrs.
Rashmi Amol Narayane

...Proposed Adoptive
Parents

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

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

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

CORAM : R.I. CHAGLA, J.

DATE : 21TH AUGUST 2024

ORDER :

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

(“the said female minor”) born on 29/10/2022. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai Suburban District-II on 07/11/2022 and the child’s custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 07/11/2022 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 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 female minor (“Legally Free for Adoption”) on 18/01/2023. 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 Sevagram, Maharashtra aged about 40 and 38 years respectively. They have been married for the past 11 years (07/05/2013) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No.30 to the Petition.

5. The Minutes of Adoption Committee meeting held on

24/07/2023 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.

6. 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.133-136 to the Petition.

7. The Medical Report of the Prospective Adoptive Parents dated 21/07/2023 states that, "Both are fit to adopt a child". Their HIV I & II and Hepatitis B Test Reports certify the case as Non-Reactive. These reports are on record at page Nos.26-29 to the Petition.

8. The Prospective Adoptive father is working as an Assistant Professor with Datta Meghe Institute of Engineering Technology of Research, Wardha since July, 2011 and his annual gross salary is Rs.7,19,288/-. His Form No.16 is on record at page Nos.39-41 to the Petition.

9. The Prospective Adoptive mother is working as a Lab-Technician with MGIMS, Sevagram since December, 2013 and her gross monthly (June-2023) salary is Rs.61,758/-. Her pay slips and

Income Tax returns are on record at page Nos.38 & 42-45 to the Petition.

10. The Proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos.31-33 & 46-52 to the Petition.

11. The Child Care undertakings by the Prospective Adoptive Mother and her mother are on record at page Nos.53-55 to the Petition.

12. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.56-64 to the Petition.

13. The Home Study Part II : Assessment Reports dated 04/02/2021 of the social worker of Specialized Adoption Agency “Aakanksha Shishu Kalyan Kendra”, Wardha, Maharashtra has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.65-72 to the Petition.

14. The child security undertaking dated 21/07/2023 given by the Prospective Adoptive father’s brother and sister-in-law residing at

Sevagram, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.80-83 to the Petition.

15. The Medical Examination Report of the said female minor dated 09/06/2023 states, "Health status: Normal. Overall observation: She has achieved all the milestones expected for her age". The Proposed Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.87-97 to the Petition.

16. The HIV test report of the said female minor dated 10/11/2022 certifies the case as Negative. This report is on record at page No.99 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.100 to the Petition.

17. 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 female minor. The said Declaration is on record at page Nos.34-35 to the Petition.

18. The Pre-adoption foster care undertaking dated 21/07/2023 is on record at page Nos.36-37 to the Petition.

19. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Hiya' be renamed as "Amaira Amol Narayane".

20. The undertaking dated 29/07/2023 given by the Specialized Adoption Agency "Aakanksha Shishu Kalyan Kendra", Wardha, Maharashtra for furnishing post adoption follow-up reports is on record at page No.106 to the Petition.

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

22. Mr. O. Hareendran, Scrutiny Officer has tendered the Report / Representation from the Indian Council of Social Welfare (ICSW) dated 09/08/2024 which is taken on record and marked 'X' for identification.

23. Having considered the material on record as well as the Report of the Scrutiny Officer dated 09/08/2024 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.

24. 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.”*

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

26. 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 Amaira Amol Narayane 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 female minor Amaira Amol Narayane 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 Amaira Amol Narayane, born on 29/10/2022 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 'Hiya' to "Amaira Amol Narayane".

27. 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.

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

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

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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