

Sharada

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

SHARADA
RANGNATH
WAHULE

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INDIAN ADOPTION PETITION NO. 78 OF 2024

WITH

JUDGE'S ORDER NO. 122 OF 2024

IN

INDIAN ADOPTION PETITION NO. 78 OF 2024

Shraddhanand Mahilashram,
Shraddhanan, Road, Matunga, Mumbai ...Petitioner

And

Mr. Umesh Bhagwan Awaghade ...Proposed Adoptive
Mrs. Tarnnu Bashir Nadaf 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 : 4TH SEPTEMBER 2024

ORDER :

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

(“the said female minor”) born on 27/03/2021. The said female minor was admitted to the Petitioner Institution on 09/04/2021 as per the order of the Child Welfare Committee (CWC), Mumbai City-I 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 on 30/04/2021. 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 City-II declared the said female minor (“Legally Free for Adoption”) on 09/07/2021. 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 Kolhapur, Maharashtra aged about 39 and 50 years respectively. They have been married for the past 10 years (01/08/2014) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No.30 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.132-136 to the Petition.

6. The Minutes of Adoption Committee meeting held on 10/01/2024 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 of the Prospective Adoptive Parents dated 26/12/2023 states that, "They are physically and mentally fit for their regular duties". Their HIV and HBsAg Test Report 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 self-employed (Practicing Advocate) since 2013 and his income for the Assessment Year 2023-24 is Rs.2,41,160/-. His Income Affidavit and Income Tax returns are on record at page Nos.40-53 to the Petition.

9. The Prospective Adoptive mother is self-employed (Practicing Advocate) since 2010 and her income for the Assessment Year 2023-24 is Rs.2,92,400/-. Her Income Affidavit and Income Tax returns are on record at page Nos.54-67 to the Petition.

10. The Proof of Residence, and copies Pan Card and financial documents are on record at page Nos.31-33 & 68-81 to the Petition.
11. The childcare Plan statement of the Prospective Adoptive Parents is on record at page No.82 to the Petition.
12. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.83-98 to the Petition.
13. The Home Study Part II : Assessment Reports dated 25/02/2020 and 25/05/2023 by the Specialized Adoption Agency District Probation and After Care Association Shishugruh, Kolhapur, Maharashtra has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.99-109 to the Petition.
14. The child security undertaking dated 12/01/2024 given by the Prospective Adoptive mother's sister residing at Kolhapur, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.117-119 to the Petition.
15. The Medical Examination Report of the said female minor

dated 12/12/2023 states, "Health status: Normal. Her milestones appropriate for age". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.122-128 to the Petition.

16. The HIV test report of the said female minor dated 14/12/2023 certifies the case as Negative. This report is on record at page No.130 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.131 to the Petition.

17. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Manali' be renamed as "Kayra Umesh Awaghade".

18. 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.34-36 to the Petition.

19. The Pre-adoption foster care undertaking dated 13/01/2024 is on record at page Nos.37-39 to the Petition.

20. The undertaking dated 06/01/2024 by the Specialized Adoption Agency District Probation and After Care Association

Shishugruh, Kolhapur, for furnishing post adoption follow-up reports is on record at page No.137 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 08/03/2024.

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

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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 “Kayra Umesh Awaghade” 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 “Kayra Umesh Awaghade” born on 23/03/2021 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 Manali to “Kayra Umesh Awaghade”

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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