

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

INDIAN ADOPTION PETITION NO. 86 OF 2024
WITH
JUDGE'S ORDER NO. 133 OF 2024
IN
INDIAN ADOPTION PETITION NO. 86 OF 2024

St. Catherines Home

...Petitioner

And.

1. Mr. Rahul Suresh Auti and
2. Mrs. Archana Rahul Auti.

... Proposed Adoptive
Parents.

Mr. Rakesh K. L. Kapoor i/b. Mrs. Rakesh K. L. Kapoor, for the
Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R. I. CHAGLA, J.

DATE : 09 OCTOBER 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the female minor
Sanyukta (**"the said female minor"**) born on 29th November 2023.

The biological mother had surrendered the said female minor before the Child Welfare Committee, (CWC), Mumbai Suburban District on 29th November 2023, and the said female minor was admitted to the Petitioner Institution on the same day. On 29th November 2023 through its order, the said CWC recognized that admission under the provisions of 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 female minor Sanyukta "Legally Free for Adoption" on 15th May 2024. The Free for adoption order is on record at page No. 21 to the petition.

3. The Prospective Adoptive parents are Indian nationals, residing at Pune aged about 38 and 37 years respectively. They have been married for the past 11 years (14/07/2013) with one biological son aged about 10 years. The biological son's birth certificate, health report and consent letter are on record at page Nos.27-32 to the petition.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 41 to the petition.
5. The Minutes of Adoption Committee Meeting held on 24th June 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.
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. 135-139 to the petition.
7. The Medical report of the prospective adoptive parents dated 05th July 2024 is on record and it states that they do not have any major illness and both are fit for adoption. Their HIV I & II and Hepatitis B test reports certify the case as Non Reactive. These reports are on record at page Nos. 33-40 to the Petition.
8. The Prospective Adoptive father is working as a Manager with Vodafone India Services Pvt. Ltd., Pune since 06/07/2023 and his monthly (July-2024) gross salary is Rs. 1,73,458/-. His Pay Slips and Form No. 16 are on record at page Nos. 49-72 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.42-44 & 73-76 to the petition.

10. The Home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 77-93 to the Petition.

11. The Home Study Report Part II: Assessment reports dated 20/03/2021 and 09/02/2024 of the social worker of Specialized Adoption Agency “Adhar”, Adoption Center, Nigdi, Pune have found the prospective adoptive parents suitable for adopting a child. These reports are on record at page Nos. 94-106 to the Petition.

12. The child security undertaking dated 05th July 2024 given by the Prospective Adoptive mother’s sister and brother-in-law residing at Chinchwad, Pune to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 116-118 to the Petition.

13. The Medical Examination Report of the said female minor dated 23rd May 2024 is on record at page Nos. 122-131 to the petition and it states, "Health Status: Normal. Overall Observation of the child: She is slowly and steadily catching up with her motor and social milestones." The Prospective Adoptive Parents have countersigned the Medical Examination Report.

14. The HIV test report of the said female minor dated 30/12/2023 certifies the case as Negative. This report is on record at page No. 133 to the petition. The Post Card Size Photograph of the minor is on record at page No. 134 to the petition.

15. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the adoptive parents of the said female minor. This Declaration is on record at page Nos. 45-46 to the petition.

16. The Pre-adoption foster care undertaking dated 05/07/2024 is on record at page No. 47-48 to the Petition.

17. As regards the change of name, the prospective adoptive parents desire that the said female minor 'Sanyukta' be renamed as "Rama Rahul Auti".

18. The undertaking dated 28th June 2024 given by the Specialized Adoption Agency "Adhar", Adoption Center, Nigdi, Pune for furnishing post adoption follow-up reports is on record at page No. 140 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 05th May 2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 21st September 2024, which is taken on record and marked "X" for identification.

21. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 21st September 2024, 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.

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 in Adoption and be declared as parents and has 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 Rama Rahul Auti, born on 27th October 2023 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Sanyukta to "Rama Rahul Auti", born on 27th October 2023.

25. There is an undertaking of the Adoptive Parents in the Judge's order to invest a sum of Rs. 1,00,000/- in the name of Adopted Child. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to hand over the investment receipts to the Adopted Child on her becoming a major. These undertakings are accepted as undertakings given to this Court.

26. The Judge's order is accepted and signed separately.

27. The Indian Adoption Petition is accordingly disposed of.

No order as to costs.

[R. I. CHAGLA J.]

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