

Zeenat Pathan

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

INDIAN ADOPTION PETITION NO.94 OF 2024
WITH
JUDGE'S ORDER NO. 148 OF 2024
IN
INDIAN ADOPTION PETITION NO.94 OF 2024**

Vatsalya Trust, Mumbai

...Petitioner

And

**1.Sandip Pradip Chung
2. Vanita Sandip Chung**

**...Prospective
Adoptive Parents**

Ms. Sangeeta A. Nagpal, Petitioner.

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

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

**CORAM : R.I. CHAGLA, J.
DATE : NOVEMBER 27, 2024.**

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adopted Parents have sought adoption of the male minor Kiyansh ('the said male minor') born on 26/07/2023. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai Suburban District on 03/08/2023 and

child's custody was given to the Petitioner institution Vatsalya Trust, Mumbai on the same day as per the order of CWC dated 3/08/2023 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The admission order is on record on page No.96 of the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, Dist. Mumbai declared the said male minor "Legally Free for Adoption" on 10/10/2023. The Free for adoption certificate is on record at page Nos.93-94 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Solapur, Maharashtra aged about 35 years and 33 years respectively. They have been married for the past 12 years (12/08/2012) with no biological children.

4. The Motivation Letter of the proposed Adopters is on record at Page No. 76 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor Kiyansh is on record at Page Nos. 104-109 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 02/02/2024 is on record at Page No. 90 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.
7. The Medical Report of the Prospective Adoptive Parents dated 02/12/2023 states that they are free from any medical illness at present. Their HIV and HBsAg test reports certify the case as Non-Reactive. The Medical Report is on record at Page Nos. 31-39 to the Petition.
8. The Prospective Adoptive father is self-employed (Running a Shop “Sangam Sweet Home” at Karmala, Dist. Solapur) and his income for the Assessment Year 2023-24 is Rs. 4,98,060/-. His Income Affidavit and Income Tax Returns are on record at Page Nos. 42-57 to the Petition. The Prospective Adoptive Mother is a Homemaker.
9. The copies of PAN card, Proof of Residence and supportive financial documents are on record at Page Nos. 23, 24, 40 and 58-60 to the petition.
10. The Home study report Part I : Self Assessment by the

Prospective Adoptive Parents is on record at Page Nos. 61-69 to the Petition.

11. The Home Study Report Part II : Assessment report dated 16/01/2024 of the Specialized Adoption Agency “Pakhar Sankul Balgruh”, Solapur has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Report is on record at Page Nos. 70-74 to the Petition.

12. The child security undertaking dated 07/02/2024 given by the Prospective Adoptive Father’s cousin and his wife residing at Savedi, Ahmednagar, Maharashtra, to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos. 77-78 to the Petition.

13. The Medical Examination Report of the said male minor dated 05/01/2024 states, “Health status of the child: Normal child. Overall observation of the child: up to now his overall development is within normal limits”. The Prospective Adoptive Parents have countersigned the said report which is on record at Page Nos 82-88 to the Petition.

14. The HIV report of the said male minor dated 10/08/2023

certifies the case as Negative. This report is on record at Page No. 89 to the Petition. The Post Card Size Photograph of the said male minor is on record at Page No. 101 to the Petition.

15. The Pre-adoption foster care undertaking dated 07/02/2024 is on record at Page No. 97-98 to the Petition.

16. The Joint Declaration of consent and willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. The said declaration is on record at Page Nos. 99-100 to the Petition.

17. As regards the change of name, the prospective adoptive parents desire that the said male minor 'Kiyansh' be renamed as "Kiyansh Sandip Chung".

18. The undertaking dated 29/05/2024 given by the Specialized Adoption Agency "Pakhar Sankul Balgruh", Solapur for furnishing post adoption follow-up reports is on record at Page No. 103 to the Petition.

19. The Petitioner institution's recognition from the Women and

Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered the Scrutiny Report/ Representation from the Indian Council of Social Welfare dated 25/11/2024, which is taken on record and marked “X” for identification.

21. Having considered the material on record, as well as the Scrutiny Report 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.,** 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, there is no impediment to hearing and disposing of this Petition.

24. In these circumstances, the Petition is allowed in terms of

prayer clauses (a) to (e) of the Petition, which reads thus:-

“(a) For adoption of the proposed female baba Kiyansh @ Kiyansh Sandip Chung born on 26/07/2023 under Juvenile Justice Act by Proposed Adoptive Parents.

(b) For declaring the proposed adopters as adoptive parents of the said minor and shall have all parental rights, privileges and Responsibilities over the said minor Kiyansh Sandip Chung.

(c) That the proposed adopters be granted permission to change the Name of minor Kiyansh to Kiyansh Sandip Chung.

(d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Kiyansh Sandip Chung born on 26/07/2023 and stating thereon that the prospective adoptive parent as the Parent of the said minor.

(e) That the prospective adoptive parent 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.”

25. There is an undertaking of the Adoptive Parents in the Judge’s Order to invest a sum of Rs. 1 lakh in the name of the Adopted Child. They further undertake not to withdraw this investment till the Adopted child attains majority. They agree 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 signed separately.

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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