

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

INDIAN ADOPTION PETITION NO. 12 OF 2024

WITH

JUDGE'S ORDER NO. 18 OF 2024

St. Catherine's Home, part of St. Catherine's Society. ...Petitioner

And.

Mr. Dinesh Maganlal Prajapati & Mrs. Leelaben Dineshbhai Prajapati ... Prospective Adoptive Parents

Mr. Rakesh Kapoor, i/by M/s. Rakesh K. L. Kapoor & Co. for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 1 February 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of female minor Tara (“the said female minor”) born on 19th July 2018. The said female minor was found abandoned by the Andheri Railway Police Station on 19th July 2021 and admitted to the Petitioner institution

on the same day as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District-II, dated 19th July 2021 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The Admission Order of the CWC has been placed 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 District declared the said female minor Tara “Legally Free for Adoption” on 7th October 2022. The Free for adoption order has been placed on record at page No. 21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Ahmedabad, Gujarat aged about 56 and 48 years respectively. They have been married for the past 31 years (10th February 1993) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents has been placed on record at page No. 35 to the Petition.

5. The Minutes of Adoption Committee Meeting held on

10th February 2023 has been placed on record at page Nos. 19-20 to the Petition and the Committee has decided 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 has been placed on record at page Nos. 97-101 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 13th May 2023 is on record and it states, "Both are medically fit". Their HIV I & II and Hepatitis B test reports certify the case as Non-reactive. The said reports have been placed on record at page Nos. 27 to 34 to the Petition.

8. The Prospective Adoptive Parents are self-employed (running Gruh Udhog Factory in Ahmedabad) for the last 25 years. Their annual income as per the Prospective Adoptive Mother's Indian Income Tax Acknowledgement for the Assessment year 2023-24 is Rs. 5,02,250/-. The Income Tax Returns for the Assessment Year 2021-22, 2022-23 and 2023-24 and Income Affidavit of the Prospective

Adoptive Parents have been placed on record at page Nos. 45-47B to the Petition.

9. The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents have been placed on record at page Nos. 36-38 and 48-51 to the Petition.

10. The Child Care Plan Declaration of the Prospective Adoptive Mother has been placed on record at page No. 52 to the Petition.

11. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at page Nos. 53-60 to the Petition.

12. The Home Study Report Part II: Assessment Report dated 20th January 2021 of the social worker of Specialized Adoption Agency, "Shishu Gruh", Paldi, Ahmedabad is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. These reports have been placed on record at page Nos. 61-69 to the Petition.

13. The child security undertaking dated 20th February 2023 given by the Prospective Adoptive Father's Nephew and his wife residing at Ahmedabad to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page Nos. 77-81 to the Petition.

14. The Medical Examination Report of the said female minor dated 24th November 2022 states, "Health Status: Normal. She has achieved all the expected milestones for her age". The Prospective Adoptive Parents have countersigned the Medical Examination Report which has been placed on record at page Nos. 85-93 to the Petition.

15. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Tara' be renamed as "Jyoti Dinesh Prajapati".

16. The HIV Test Report of the said female minor dated 4th October 2023 certifies the case as Non-Reactive. The said report has been placed on record at page No. 95 to the Petition.

17. The Post Card Size Photograph of the said female minor has been placed on record at page No. 96 to the Petition.

18. 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 has been placed on record at page No.39-41 to the Petition.

19. The Pre-adoption foster care undertaking dated 20th February 2023 has been placed on record at page No. 42-44 to the Petition.

20. The undertaking dated 09/02/2023 given by the authorities of “Shishu Gruh”, Paldi, Ahmedabad for furnishing post adoption follow-up reports have been placed on record at page No. 102 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 up to 5th May 2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 24th January 2024, which is taken on record and marked “X” for identification.

23. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 24th January 2024, which is marked X, I am of the view that it would be in the interest of the said female minor, if she is adopted by the Proposed Adopters.

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),

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(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 Jyoti Dinesh Prajapati 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 Jyoti Dinesh Prajapati from the jurisdiction of this Hon'ble Court and to take the said minor out of the jurisdiction of this Hon'ble 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 Jyoti Dinesh Prajapati born on 19/07/2018 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 'Tara' to "Jyoti Dinesh Prajapati".

27. 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 further 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. This undertaking is accepted as an undertaking given to this Court.

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

29. The Indian Adoption Petition is accordingly disposed of. No order as to costs.

[R.I. CHAGLA J.]