

Manoj Wakle

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

INDIAN ADOPTION PETITION NO.59 OF 2024
WITH
JUDGE'S ORDER NO.87 OF 2024
IN
INDIAN ADOPTION PETITION NO.59 OF 2024

St. Catherine's Home

...Petitioner

And

Mr. Bhavik Dilipbhai Parekh and
Mrs. Manali Bhavik Parekh

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i/by Mrs. Rakesh K. L. Kappor & Co. for the
Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 19th JUNE, 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Prospective Adoptive Parents have sought adoption of the female

minor Nalanda (“the said female minor”) born on 09/04/2022. The said female minor was found abandoned by the Borivali Railway Police Station, Mumbai on 19/04/2022 and produced before the Child Welfare Committee (CWC), Mumbai Suburban District-II and the child’s safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 19/04/2022 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 “Legally Free for Adoption” on 23/11/2022. 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 Jamnagar, Gujarat, aged about 38 and 37 years respectively. They have been married for the past 12 years (11/02/2012) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 32 to the Petition.

5. The Minutes of Adoption Committee Meeting held on 10/02/2023 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.131-135 to the Petition.

7. The Medical Report of the Prospective Adoptive Parents dated 07/08/2023 states that both are fit for adoption. Their HIV I & II and Hepatitis B test reports certify the case as Non Reactive. The said Reports are on record at page Nos. 26-31 to the Petition.

8. The Prospective Adoptive Father is working as an Executive with Rajhans Metals Pvt. Ltd., Jamnagar, since July 2011 and his (July-2023) gross salary is Rs.50,000/-. His Salary Slips, Income Affidavit and Income Tax returns are on record at page Nos. 41-68 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. 33-34 & 69-75 to the Petition.

10. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 76-82 & 89-94 to the Petition.

11. The Home Study Report Part II: Assessment Reports dated 14/09/2019 and 23/08/2022 of the social worker of Specialized Adoption Agency, “Shree Kasturba Stri Vikas Gruha”, Jamnagar, Gujarat have found the Prospective Adoptive Parents suitable for adopting a child. These Reports are on record at page Nos. 83-88 & 95-103 to the Petition.

12. The child security undertaking dated 07/02/2023 given by the Prospective Adoptive Father’s brother and sister-in-law residing at Nagpur, Maharashtra to look after said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 113-115 to the Petition.

13. The Medical Examination Report of the said female minor dated 04/01/2023 states, 'Health Status: Normal. Overall observation of the child: Nalanda has achieved most of the milestones expected for her age". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos. 119-126 to the Petition.

14. The HIV test report of the said female minor dated 08/04/2024 certifies the case as Negative. The said Report is on record at page No. 129 to the Petition.

15. The Post Card Size Photograph of the said female minor is on record at page No. 130 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Nalanda' be renamed as "Kriva Bhavik Parekh".

17. 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. The said Declaration is on record at page Nos. 35-37 to the Petition.

18. The Pre-adoption foster care undertaking dated 07/02/2023 is on record at page No. 38-40 to the Petition

19. The undertaking dated 27/09/2023 given by the authorities of "Shree Kasturba Stri Vikas Gruha", Jamnagar, Gujarat for furnishing post adoption follow-up reports is on record at page No. 136 to the Petition.

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

21. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation from the Indian Council of Social Welfare (ICSW) dated 11/06/2024 which is taken on record and marked 'X' for identification.

22. Having considered the material on record as well as the Report of the Scrutiny Officer which is marked 'X', I am of the view that it would be in the interest of the said female minor that she is adopted by the Proposed Adopters.

23. 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."

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

25. 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 **Kriva Bhavik Parekh** 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 **Kriva Bhavik Parekh** 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 **Kriva Bhavik Parekh**, born on 09/04/2022 and stating thereon that the Prospective Adoptive Parents are the Parents of Parents of the said minor.*
- (d) That the Prospective Adoptive Parent be allowed to change the name of the minor from ‘Nalanda’ to “**Kriva Bhavik Parekh.**”*

26. The Judge’s Order is accepted and signed separately.

27. There is an undertaking of the Adoptive Parents in the Judge’s Order to invest sum of Rs.1,00,000/- (Rupees One Lakh

Only) in the name of the Adopted Child till the Adopted Child attains the age of majority. These undertakings are accepted as undertakings to this Court.

28. The present Indian Adoption Petition is accordingly, disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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