

Sharada

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

INDIAN ADOPTION PETITION NO. 64 OF 2024

WITH

JUDGE'S ORDER NO. 93 OF 2024

IN

INDIAN ADOPTION PETITION NO. 64 OF 2024

Vatsalya Trust

...Petitioner

And

Mr. Kapil Ashok Chavan and Mrs. Minakshi
Kapil Chavan

...Prospective
Adoptive Parents

Ms. Sangeeta A. Nagpal, Advocate for the Petitioner.

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

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

Ms. Anupama Dhuri.

CORAM : R.I. CHAGLA, J.

DATE : 16TH JULY 2024

ORDER :

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

minor Shivanya (“**the said female minor**”) born on 27/03/2023. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai Suburban District on 31/03/2023 and the said female minor was admitted to the Petitioner Institution on the same day. On 06/04/2023 through its order, the CWC Mumbai Suburban District recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The CWC Admission order is on record at page No.99 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 Shivanya (“Legally Free for Adoption”) on 01/06/2023. The Free for adoption Certificate is on record at Page Nos.96-97 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Kolhapur, Maharashtra aged about 45 and 40 years respectively. They having married for the past 9 years (19/07/2005) with no biological children.

4. The Motivation Letter of the Proposed Adopter is on record at page No.77 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.110-115 to the Petition.

6. The Minutes of Adoption Committee meetings held on 03/01/2024 are on record at page No.93 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 14/12/2023 states that, "They are mentally and physically fit. They are not suffering from any infectious disease at present". Their HIV and HBsAg Test Reports certify the case as Negative. These reports are on record at page Nos.32-38 to the Petition.

8. The Prospective Adoptive father is self-employed. He is running a family business of Chili and Chili Powder trading since 1995. His income for the Assessment Year 2023-24 is Rs.4,10,680/-. His Income Tax Returns are on record at page Nos40-55 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.24, 26, 39 and 56-60

to the Petition.

10. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.61-66 to the Petition.

11. The Home Study Part II : Assessment Reports dated 21/07/2021 by the Specialized Adoption Agency “Shishugruh”, Kolhapur has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.67-75 to the Petition.

12. The child security undertaking dated 13/12/2023 of the Prospective Adoptive Mother’s brother and sister-in-law residing at Karveer, Kolhapur to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.78-81 to the Petition.

13. The Medical Examination Report of the said female minor dated 18/10/2023 states, “Health status of the child: Normal child. Overall observation of the child. Up to now her over all development is within normal limit”. The Proposed Adoptive Parents have countersigned the Medical Examination Report which is on record at

page Nos.85-91 to the Petition.

14. The HIV report of the said female minor dated 14/07/2023 certifies the case as Negative. This report is on record at page No. 92 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.107 to the Petition.

15. The Pre-adoption foster care undertaking dated 09/01/2024 is on record at page Nos.100-104 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 Adoptive Parents of the said female minor. The said Declaration is on record at page Nos.105-106 to the Petition.

17. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Shivanya' be renamed as "Shivanya Kapil Chavan".

18. The undertaking dated 02/01/2024 given by the Specialized Adoption Agency of "Shishugruh", Kolhapur for furnishing post adoption follow-up reports is on record at page No.109 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 05/07/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 11/07/2024 which is taken on record and marked 'X' for identification.

21. Having considered the material on record as well as the Report of the Scrutiny Officer dated 11/07/2024 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.

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 (e) of the Petition, which read thus:-

“a) For adoption of the Proposed female minor baby Shivana @ Shivanya Kapil Chavan born on 27th March, 2023 by proposed Adopters under Juvenile Justice Act.

b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor girl Shivanya Kapil Chavan.

c) That the Proposed Adopters be granted permission to change the name of minor Shivanya to Shivanya Kapil Chavan

d) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Shivanya Kapil Chavan, born on 27th March, 2023 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor.

e) 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”.

25. In the Judge’s Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.2,00,000/- (Rupees Two Lakh

only) in the name of the Adopted Child's. The Adoptive Parents also undertake not to withdraw this investment till the Adopted Child attains majority. The Adoptive Parents agreed to handover the investment receipt to the Adopted Child on her becoming a major. These undertakings are accepted as undertaking to this Court.

26. The Judge's Order is also accepted and separately signed.

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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