

Sharada

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

INDIAN ADOPTION PETITION NO.66 OF 2024

WITH

JUDGE'S ORDER NO.100 OF 2024

IN

INDIAN ADOPTION PETITION NO.66 OF 2024

Vatsalya Trust Mumbai

...Petitioner

And

Mr. Kaushalkumar Kassi and Mrs. Navodita
Kassi

...Prospective
Adoptive Parents

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

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 31st JULY 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Aashish (“**the said male minor**”) born on 02/02/2023. The biological

mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai Suburban District on 09/02/2023 and the child's custody was given to the Petitioner institution on the same day as per the order of CWC dated 09/02/2023 under the Provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The Admission Order of the CWC is on record at page No.107 to 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 13/04/2023. The Free for Adoption Certificate is on record at page Nos.104-105 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Jaipur, Rajasthan, aged about 42 and 38 years respectively. They have been married for the past 14 years (19/11/2009) with no biological children.

4. The Motivation Letter of the Proposed Adopters is on record at page No.83 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 is on record at page Nos.114-118 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 03/11/2023 is on record at page No.100 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

7. The Medical Report dated 20/10/2023 of the Prospective Adoptive Parents are on record and it states, "Both are in good health". Their HIV & HBsAg test reports certify the case as Negative. These report are on record at page Nos.29-43 to the Petition.

8. The Prospective Adoptive father is working as a General Manager (RS) with Jaipur Metro Rail Corporation Ltd., Jaipur and his monthly (January-2024) gross salary is Rs.1,64,541/-. His Appointment Letter and Pay Slip and Income Tax Returns are on record at page Nos.46-47 & 51-60 to the Petition.

9. The Prospective Adoptive mother is working as a Senior Manager with Bank of Maharashtra, Jaipur Regional Officer and her monthly (January-2024) gross salary is Rs.1,37,523/-. Her Appointment order, Pay Slip and Income Tax Returns are on record at page Nos.49-50 & 61-68 to the Petition.

10. The copies of PAN card, Proof of Residence(Rent Agreement) and supportive financial documents are on record at page Nos.24, 44-45 and 69-71 to the Petition.

11. The Child care arrangement plan undertaking of the parents of the Prospective Adoptive father is on record at page Nos.84-85 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.72-77 to the Petition.

13. The Home Study Part II : Assessment Reports dated 18/01/2021 of the authorities of Government Shishu Grah, Department for Child rights, Jaipur have found the Prospective Adoptive Parents suitable for adopting a child. The said reports are on record at page Nos.78-81 to the Petition.

14. The child security undertaking dated 21/10/2023 given by the Prospective Adoptive a father's brother and sister-in-law residing at Ghaziabad, U.P to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.86-89 to the Petition.

15. The Pre-adoption foster care undertaking dated 19/10/2023 is on record at page Nos.108-109 to the Petition.

16. The Joint Declaration of consent, willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said male minor. The said Declaration is on record at page No.110 to the Petition.

17. The Medical Examination Report of the said male minor dated 21/07/2023 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.93-99 to the Petition.

18. The HIV Test Report of the said male minor dated 13/07/2023 certifies the case as Negative. This report is on record at page No.100 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.111 to the Petition.

19. As regards the change of name, the Proposed Adopters desire that the said male minor "Aashish" be renamed as "Ashvik Kassi".

20. The undertaking dated 23/102/2023 given by the authorities of Government Shishu Grah, Department for Child rights, Jaipur for furnishing post adoption follow-up reports is on record at page No.113 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 05/05/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 19/07/2024 which is taken on record and marked 'X' for identification.

23. Having considered the material on record as well as the Report of the Scrutiny Officer dated 19/07/2024 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.

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

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Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

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.”

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) For adoption of the Proposed male minor baba Aashish @ Ashvik Kassi born on 2nd February 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 Baba Ashvik Kassi

(c) That the Proposed Adopters be granted permission to change the name of minor Aashish to Ashvik Kassi

(d) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Ashvik Kassi, born on 2nd February 2023 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor”.

27. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.5,00,000/- (Rupees Five Lakhs only) in the Adopted Child's name. They also undertake not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipt to the Adopted Child on his becoming a major. These undertakings are accepted as undertakings to this Court.
28. The Judge's Order is also accepted and separately signed.
29. The Indian Adoption Petition is accordingly disposed of.
30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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