

Sharada

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

INDIAN ADOPTION PETITION NO. 67 OF 2024

WITH

JUDGE'S ORDER NO.101 OF 2024

IN

INDIAN ADOPTION PETITION NO. 67 OF 2024

Shree Manav Seva Sang

...Petitioner

And

Mr. Rajeev Kumar Gupta and Mrs. Jyoti
Gupta

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor, Advocate for the
Petitioner.

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

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

Mr. Rajeev Kumar Gupta- Adoptive Father.

Mrs. Jyoti Gupta- Adoptive Mother alongwith Kum. Yuvraj Gupta
Minor present in Chamber.

CORAM : R.I. CHAGLA, J.

DATE : 7TH AUGUST 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Devansh (“**the said male minor**”) born on 04/05/2023. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai City II on 18/08/2023 and the child’s custody was given to the Petitioner institution on the same day as per the order of CWC dated 18/08/2023 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.22 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said male minor “Legally Free for Adoption” on 19/10/2023. The Free for Adoption Certificate is on record at page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Thane, Maharashtra aged about 43 and 36 years respectively. They have been married for the past 10 years (16/01/2012) with no biological children.

4. The Motivation Letter from the Proposed Adopters is on record at page No.32 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.146-150 to the Petition.
6. The Minutes of Adoption Committee Meeting held on 01/03/2024 is on record at page Nos.19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.
7. The Health Report dated 22/02/2024 of the Prospective Adoptive Father is on record and it states, “He is k/c/o dyslipidemia on medication and pre diabetic-on lifestyle modification. He is medically fit for child adoption as on 22/02/2024. He is currently not suffering from any active infectious diseases/any chronic disease”. This report is on record at page No.26 to the Petition.
8. The Health Report dated 22/02/2024 of the Prospective Adoptive Mother is on record and it states, “ She is k/c/o Hypothyroid on regular medication and early pre diabetes. She is medically fit for child adoption as on 22/02/2024. She is currently

not suffering from any active infectious diseases/any chronic disease". This report is on record at page No.26A to the Petition.

9. The Prospective Adoptive Parents HIV and Hepatitis B test reports certify the case as Non-reactive. These reports are on record at page Nos.27-31B to the Petition.

10. The Prospective Adoptive father is working as a Senior Technical Architect with Vermont Information Processing India Pvt. Ltd., Santacruz Mumbai since July, 2023 and his monthly (February-2024) gross salary is Rs.2,19,104/-. His Pay Slips and Income Tax Returns are on record at page Nos.40-63 to the Petition.

11. The Prospective Adoptive Mother is a Math Teacher (Cuemath Teacher-taking class from home) and her income for the Assessment Year 2023-2024 is Rs.55,870/-. Her Income Tax Returns are on record at page Nos.64-84 to the Petition.

12. The Proof of Residence (Rental Agreement), and Pan Card and other supportive financial documents are on record at page Nos.33-35 & 85-107 to the Petition.

13. The Childcare Plan declaration of the Prospective Adoptive Mother is on record at page No.108 to the Petition.

14. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.109-118 to the Petition.

15. The Home Study Part II : Assessment Reports dated 12/03/2021 and 18/05/2024 of the Specialized Adoption Agency “Children of the World India” Nerul, Navi Mumbai have found the Prospective Adoptive Parents suitable for adopting a child. The said reports are on record at page Nos.119-123’A to the Petition.

16. The child security undertaking dated 22/02/2024 by the Prospective Adoptive father’s sister and brother-in-law residing at Bhatinda, Punjab to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.131-132 to the Petition.

17. The Medical Examination Report of the said male minor dated 08/01/2024 states, “Health Status: Normal. Overall Observation of the child: He is a happy child.” The Proposed Adopters have countersigned the said Report which is on record at page Nos.136-142 to the Petition.

18. The HIV Test Report of the said male minor dated 21/08/2023 certifies the case as Negative. This report is on record at

page No.144 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.145 to the Petition.

18. As regards the change of name, the Proposed Adopters desire that the said male minor “Devansh” be renamed as “Yuvraj Gupta”.

20. The Declaration of consent and undertaking 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.36-37 to the Petition.

21. The Pre-adoption foster care undertaking dated 28/03/2024 is on record at page Nos.38-39 to the Petition.

22. The undertaking dated 22/02/2024 of the Specialized Adoption Agency “Children of the World India Trust”, Nerul, Navi Mumbai, for furnishing post adoption follow-up reports is on record at page No.151 to the Petition.

23. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 07/03/2024.

24. 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.

25. 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.

26. 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.”

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

28. 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 Yuvraj Gupta 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 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 Yuvraj Gupta born on 04/05/2023 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.*

(d) *The the Prospective Adoptive Parents be allowed to change the name of the minor from ‘Devansh’ to “Yuvraj Gupta”.*

29. In the Judge’s Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh 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.

30. The Judge's Order is also accepted and separately signed.
31. The Indian Adoption Petition is accordingly disposed of.
32. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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