

Sharada

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

INDIAN ADOPTION PETITION NO.68 OF 2024

WITH

JUDGE'S ORDER NO.103 OF 2024

IN

INDIAN ADOPTION PETITION NO.68 OF 2024

Maharashtra State Women's Council
Adoption Group

...Petitioner

And

Kapil Vishwanath Jobsheti abd
Mrudula Kapil Jobsheti

...Co-Petitioners /
Proposed Adopters

Ms. Dipal S. Mehta, Advocate for the Petitioner.

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

Mr. D.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 Proposed Adopters have sought adoption of the female minor Veera

(“**the said female minor**”) born 26/01/2024. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai- City on 20/02/2024 and the child’s custody was given to the Petitioner Institution on the same day as per the order of the said CWC dated 20/02/2024 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.21 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City-II declared the said female minor (“Legally Free for Adoption”) on 23/04/2024. The Free for Adoption Certificate is on record at Page Nos.22-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Kolhapur, Maharashtra aged about 41 and 37 years respectively. They have been married for the past 13 years (17/10/2010) with no biological / adopted children.

4. The Motivation Letter of the Prospective Adoptive Parents is on record at page No.27 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.106-111A to the Petition.

6. The Minutes of Adoption Committee meeting held on 20/06/2024 is on record at page Nos.18-20 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 19/06/2024 states that, "The health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway". Their HIV and HbsAg test reports certifies the case as Non Reactive. These reports are on record at page Nos.30-35 to the Petition.

8. The Prospective Adoptive father is working as a Manager with IDBI Bank Ltd., and currently posted at Kolhapur branch and his monthly (May-2024) gross salary is Rs.1,52,497/-. The Transfer Order and Income Tax Returns and Salary Slips are on record at page Nos.51-58 & 65-70 to the Petition. The Prospective Adoptive mother is a Homemaker.

9. The Proof of residence copies of PAN card and other

supportive financial documents are on record at page Nos.39-40, 50-59, and 60-64 to the Petition.

10. Childcare arrangement plan undertaking of Prospective Adoptive mother and her mother-in-law is on record at page Nos.71-72 to the Petition.

11. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.73-80 to the Petition.

12. The Home Study Part II : Assessment Reports of the Specialized Adoption Agency “Shishugruh”, Kolhapur dated 24/06/2023 has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos.81-88 to the Petition.

13. The child security undertaking dated 28/06/2024 given by the Prospective Adoptive mother’s brother and sister-in-law residing at Jaipur, Rajasthan to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.104-105 to the Petition.

14. The Pre-adoption foster care undertaking dated

27/06/2024 is on record at page Nos.46-49 to the Petition.

15. 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 Prospective Adoptive Parents have further agreed and undertaken to the Petitioner institution and to this Court that they will not give the said child in further adoption to anyone residing in or outside India. The said Declaration is on record at page Nos.43-45 to the Petition.

16. The Medical Examination Report of the said female minor dated 28/05/2024 states, "Health status: Normal. Overall observation of the child: A normal, healthy infant". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.95-100 to the Petition.

17. The HIV report of the said female minor dated 19/04/2023 certifies the case as Non Reactive. This report is on record at page No.101 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.26 to the Petition.

18. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Veera' be renamed as

“Veera Kapil Jabsheti”.

19. The undertaking dated 18/06/2024 given by the Specialized Adoption Agency “Shishugruh”, Kolhapur for furnishing post adoption follow-up reports is on record at page Nos.102-103 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 Report / Representation from the Indian Council of Social Welfare (ICSW) dated 16/07/2024 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 dated 16/07/2024 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.

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

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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.”

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) This Hon’ble Court may be pleased to appoint the Co-Petitioners, Kapil Vishwanath Jobsheti and Mrudula Kapil Jobsheti as the adoptive parents of the female minor, Veera@ Veera Kapil Jobsheti, in the care of the Maharashtra State Women’s Council Adoption Group at Maharashtra State Women’s Council Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009,

(b) That the Co-Petitioners be allowed to change the name of the minor from ‘Verra’ to ‘Veera Kapil Jobsheti,

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon’ble Court and to take the minor alongwith them, i.e. to the Co-Petitioners’ family wherever they may reside or their work may require them to,

(d) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from

the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations,”.

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

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

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

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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