

Sharada

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

FOREIGN ADOPTION PETITION NO.21 OF 2024

WITH

JUDGE'S ORDER NO.117 OF 2024

IN

FOREIGN ADOPTION PETITION NO.21 OF 2024

SHARADA
RANGNATH
WAHULE

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Date: 2024.08.30
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Children of the World (India) Trust

...Petitioner

And

**Mr. Giorgio Traini and Mrs. Enrica
Pieragostini, Indian National,**

...Proposed Adopters

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

Ms. Vandana Chincholkar, Scrutiny Officer, ICSW present.

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

CORAM : R.I. CHAGLA, J.

DATE : 28TH AUGUST 2024

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Proposed Adopters have sought adoption of siblings namely female minor Sanvi

(“**the said female minor**”) born on 30/07/2014 and male minor Aachal, (“the said male minor”) born on 02/08/2015 (Collectively referred to as “the said minors”). The said minors were found abandoned by the Belapur Police Station on 29/03/2019 and produced before the Child Welfare Committee, (CWC) Thane and their custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 29/03/2019 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 Nos.19-22 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC Thane declared the said minors “Legally Free for Adoption” as on 29/01/2020. The Free for Adoption Certificate is on record at page Nos.17-18 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 22/03/2024 to this adoption as per Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of the Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate is on record at Page Nos.30-31 to the Petition.

4. The undertaking / affidavit of the Petitioner institution is on record at page Nos.24-29 to the Petition.
5. The Prospective Adoptive Parents are Italian Nationals, residing at Tronto, Italy, aged about 47 years and 44 years respectively. They having been married for the past 9 years (29/08/2015) with no biological children.
6. Motivation Letter from the Prospective Adoptive Parents is on record at page Nos.57-60 to the Petition.
7. The Proposed Adoptive Parents Joint Family Photograph and Copies of Passport are on record at page Nos.32 to 46 to the Petition.
8. The Health Reports dated 05/07/2022 of the Prospective Adoptive Parents states that “currently both enjoys good health and do not have any psychophysical disease whatsoever and they are suitable for adoption”. Their HIV and HBsAg Test Reports certify the case as Non-Reactive. These Reports are on record at Page Nos.61-87 to the Petition.
9. The Prospective Adoptive Father is working, with the Company Fibermind Srl. Italy since 01/02/2023 as a 4th Level employee and his gross monthly salary is Euro 2,092. The Chartered Accountant Certificate

and Income Declaration is on record at Page Nos.88-98 to the Petition.

10. The Prospective Adoptive mother is Self-employed in the construction sector and has a firm “San Benedetto del Tronto” in Via del mare No.192, Italy. Her taxable income for the year 2022 is Euro 37,098.00. The Chartered Accountant Certificate is on record at Page Nos.99-109 to the Petition.

11. The Income Tax Certificates, Financial Declaration, Statement of Immovable property are on record at Page Nos.110-151 to the Petition.

12. The Childcare Plan statement from the Prospective Adoptive parents is on record at page Nos.152-155 to the Petition.

13. The Home study Reports dated 29/08/2022 and 26/07/2024 by the authorities of “C.I.F.A. - International Centre for children and Family”, Torino, Italy is on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are at page Nos.156-186 & 192-A. to the Petition.

14. The Psychological Evaluation Report dated 29/08/2022 by the authorities of “C.I.F.A.”, - International Centre for Children and family”, Torino, Italy has recommended the couple for the adoption of Indian child.

The said report is on record at page Nos.187-192 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Adoption Convention is on record at page Nos.193-211 to the Petition.

16. The Child Security Undertaking dated 28/05/2024 given by the Prospective Adoptive Parents' close friends residing at Giulianova, Italy to look after the said female minor in case of any unforeseen mishap to the Prospective Adoptive Parents is on record at page Nos.232-235 to the Petition.

17. The Medical Examination Report of the said female minor Sanvi dated 08/06/2023 states that "Health Status: Normal. Overall observation fo the child: She is a happy child with age appropriate development". The Prospective Adoptive Parents have countersigned this Report, which is at page Nos.242-260 to the Petition.

18. The Medical Examination Report of the said male minor Aachal dated 08/06/2023 states, "Health Status: Normal. Overall observation of the child. He has achieved all age appropriate physical motor milestones". The Prospective Adoptive Parents have countersigned this Report, which is at page Nos.268-286 to the Petition.

19. The I.Q. Report of the said female minor Sanvi dated 06/06/2024 is on record at Page No.261 to the Petition. It states “Her chronological age is 9 years 11 months and her overall IQ is 87.39 classified as Low Average”.

20. The I.Q. Report of the said male minor Aachal dated 18/05/2023 is on record at Page No.287 and it states “On the test, his IQ is found to be 95 indicating Average Intellectual functioning”.

21. The H.I.V. Report of the said female minor dated 25/04/2024 certifies the case as Non Reactive. This Report is on record at page Nos.291-292 to the Petition. The Post Card Size Photograph of the said female minors is on record at page Nos.293-294 to the Petition.

22. The consent, willingness and Undertaking of the Prospective Adoptive Parents states that they are willing to adopt the said minors. They Further undertake that they will allow personal visits by the Representative of the Authorized Foreign Adoption Agency (AFAA) during post-adoption follow-up. The said declaration is on record at page Nos.295-306 to the Petition.

23. The Undertaking dated 15/11/2023 of the Authorized Foreign Adoption Agency (AFAA) “C.I.F.A. - International Centre for Children and

Family”, Torino, Italy to provide follow-up reports of the children and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos.307-310 to the Petition.

24. The Power of Attorney dated 23/01/2024 duly executed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at page Nos.311-315 to the Petition.

25. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 12/05/2025.

26. Ms. Vandana Chincholkar, Scrutiny Officer who is present has tendered Report / Representation of Mr. O. Hareendran, Scrutiny Officer from the Indian Council of Social Welfare (ICSW) dated 08/08/2024 which is taken on record and marked ‘X’ for identification.

27. Having considered the material on record as well as the Report of the Scrutiny Officer marked ‘X’, I am of the view that, it would be in the interest of the said minors that they are adopted by the Proposed Adopters.

28. 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.”

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

30. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which read thus:-

(a) “For the Adoption of the proposed minors Sanvi, born on 30/07/2014 and Aachal born on 02/08/2015 by the proposed Adopters under Section 59(7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minors Sanvi & Aachal, having all parental rights, privileges and responsibilities over the said minors now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot No. 9 & 20, Sector- 12 Nerul, Navi Mumbai – 400 706.

(c) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said Minors Sanvi born on 30/07/2014 & Aachal born on 02/08/2015 and showing the proposed adopters as Parents.

(d) That the Proposed Adopters may be granted leave to remove the said minors Sanvi & Aachal from the jurisdiction of this Hon’ble Court and to take the said minors to ITALY or wherever they may reside in future”.

31. It is directed that the Petitioner institution shall obtain further

undertaking from the Adoptive Parents that they shall not give the said female minors for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

32. The Judge's Order is accepted and separately signed.
33. The Foreign Adoption Petition is accordingly, disposed of.
34. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

Privacy warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.