

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

INDIAN ADOPTION PETITION NO. 82 OF 2024

WITH

JUDGE'S ORDER NO. 126 OF 2024

IN

INDIAN ADOPTION PETITION NO. 82 OF 2024

Vatsalya Trust, Mumbai

...Petitioner

And.

1. Mr. Santanu Roychowdhury S/o. Nisith Kumar Roychowdhury
2. Mrs. Shusree Roychowdhury W/o Santanu Roychowdhury.

... Proposed Adoptive Parents.

Ms. Aarti Prasad Kulkarni, for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer present.
Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 18 September 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of female minor Shravani ("the said female minor") born on 31st July 2023. The

biological mother had surrendered the said female minor before the Child Welfare Committee, (CWC), Mumbai Suburban District on 22nd August, 2023, and the said female minor was admitted to the Petitioner Institution on the same day. On 22nd August, 2023, through its order, the said CWC recognized that admission 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 No. 21 to the Petition.

2. After making due inquiry under section 38 of the said Act, the CWC, Mankhurd, Dist. Mumbai declared the said female minor "Legally Free for Adoption" on 9th November 2023. The Free for adoption Certificate is on record at page Nos. 23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Kolkata, West Bengal aged about 40 and 36 years respectively. They have been married for the past 12 years (3rd June 2012) with no biological children.

4. The Motivation Letter from the Prospective Adoptive

Parents 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 female minor is on record at page Nos. 135-140 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 13th March 2024 is on record at page No. 20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical reports dated 25th February 2024 of the Prospective Adoptive Parents state that they do not suffer from any chronic, contagious or fatal disease and fit to adopt a child. Their HIV and HbsAg test reports certify the case as Negative. These reports are on record at page Nos. 28-31 to the Petition.

8. The Prospective Adoptive Father is working as a Clinical Pharmacist with Calcutta Rescue, Kolkata since 2016 and his gross salary for the Assessment Year 2023-24 is Rs. 7,30,266/-. His Form No. 16 is on record at page Nos. 44-53 to the Petition.

9. The Prospective Adoptive Mother is working as an Executive with Delhi Public School, Kolkata since 2017 and her monthly (April-2024) gross salary is Rs. 39,645/-. Her Pay Slips are on record at page Nos. 54-56 to the Petition.

10. The copies of Pan Card, Proof of Residence and supportive financial documents are on record at page Nos. 33-35 and 57-76 to the Petition.

11. The childcare plan undertaking by the Prospective Adoptive Father's Paternal Aunt is on record at page Nos. 131-134 to the Petition.

12. The Home Study Report Part I: Self Assessment Reports or the Prospective Adoptive Parents is on record at page Nos. 77-81 and 90-97 to the Petition.

13. The Home Study Report Part II Assessment Report dated 1st December 2020 by the authorities of "The Indian Society for Sponsorship and Adoption", Kolkata and Updated Report dated 7th December 2023 of the Specialized Adoption Agency "Mukti

Rehabilitation Center”, North 24 Parganas, West Bengal have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos. 82-89 and 98-103 to the Petition.

14. The child security undertaking dated 5th February 2024 of the Prospective Adoptive Father’s sister and brother-in-law residing at Kolkata, West Bengal to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page No. 113-117 to the Petition.

15. The Pre-adoption foster care undertaking dated 24th February 2024 is on record at page Nos. 41-43 to the Petition.

16. The Medical Examination Report of the said female minor dated 5th January 2024 states “Health status of the child: Normal. Overall observation of the child: Up to now, her overall mental development is normal.” The Prospective Adoptive Parents have countersigned the said report, which is on record at page Nos. 121-127 to the Petition.

17. The HIV Report of the said female minor dated 27th

November 2023 certifies the case as Negative. This report is on record at page No. 129 to the Petition. The Photograph of the said female minor is on record at page 130 to the Petition.

18. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the adoptive parents of the said female minor. The said Declaration is on record at page No. 36-40 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor **‘Shravani’** be renamed as **‘Nihira Roychowdhury’**.

20. The Undertaking dated 28th February 2024 given by the Specialized Adoption Agency “Mukti Rehabilitation Center”, North 24 Parganas, West Bengal for furnishing post adoption follow-up reports is also on record at page No. 143 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 5th July 2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 16th August 2024 which is taken on record and marked “X” for identification.

23. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 16th August 2024, which is marked X, I am of the view that it would be in the interest of the said female minor, if she 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 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 :

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

“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) That the Prospective Adoptive Parents be given the said child in Adoption and be declared as parents and has 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 Nihira Roychowdhury, born on 31/07/2023 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Shravani to "Nihira Roychowdhury" born on 31/07/2023.

27. There is an undertaking of the Adoptive Parents in the Judge's order to invest a sum of Rs. 1,00,000/- in the name of Adopted Child. They also further undertake not to withdraw this investment till the Adopted Child attains majority. They agree to hand over the investment receipts to the Adopted Child on her

becoming a major. This undertakings are accepted as undertakings given to this Court.

28. The Judge's order is also accepted and signed separately.

29. The Indian Adoption Petition is accordingly disposed of. No order as to costs.

[R.I. CHAGLA J.]

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