

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

INDIAN ADOPTION PETITION NO. 87 OF 2024
WITH
JUDGE'S ORDER NO. 134 OF 2024
IN
INDIAN ADOPTION PETITION NO. 87 OF 2024

St. Catherines Home

...Petitioner

And.

1. Mr. Indubala Gupta

2. Mrs. Rajeshwari Lakshminarayan.

... Proposed Adoptive
Parents.

Mr. Rakesh K. L. Kapoor i/b. M/s. Rakesh K. L. Kapoor & Co., for the
Petitioner.

Ms. Vandana Chinchakar, Scrutiny Officer-ICW present.

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R. I. CHAGLA, J.

DATE : 16 OCTOBER 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the male minor
Shiv ("**the said male minor**") born on 6th March 2024. The biological

mother had surrendered the said male minor before the Child Welfare Committee, (CWC), Mumbai Suburban-II on 08th March 2024, and the said male minor was admitted to the Petitioner Institution on 20th March 2024. On 20th March 2024 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. 22 to the Petition.

2. After making due inquiry under section 38 of the said Act the CWC, Mumbai Suburban-II declared the said male minor Shiv "Legally Free for Adoption" on 22nd May 2024. 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 Chennai, Tamil Nadu, aged about 48 and 45 years respectively. They have been married for the past 10 years (02nd February 2014) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 33 to the Petition.

5. The Minutes of Adoption Committee Meeting held on

01st July 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.

6. 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. 123-127 to the Petition.

7. The Medical report dated 11th June 2024 of the Prospective Adoptive Parents states that they are mentally and physically fit to adopt a child. Their HIV I and II and Hepatitis B test reports certify the case as Non Reactive. These reports are on record at page Nos. 29-32 to the Petition.

8. The Prospective Adoptive Father is working as a Therapy Manager with MSD Pharmaceuticals Private Limited, Chennai since 9th January 2006 and his monthly (July-2024) gross salary is Rs.95,336/- His Income Certificate from Chartered Accountants, Pay Slips and Income Tax returns are on record at page Nos.41-65 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos. 34-36 &

66-69 to the Petition.

10. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos. 70-85 to the Petition.

11. The Home Study Report Part II: Assessment Reports dated 15th November 2020 and 22nd December 2023 of the social worker of Specialized Adoption Agency “Kalaiselvi Karunalaya Social Welfare Society, Chennai, Tamil Nadu” have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos. 103-106 to the Petition.

12. The child security undertaking dated 11th July 2024 of the Prospective Adoptive Father’s brother and sister-in-law and brother-in-law residing at Villupuram, Tamil Nadu to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 103-106 to the Petition.

13. The Medical Examination Report of the said male minor dated 21st June 2024 states “Health status of the child: He is growing well physically and neurologically. His routine 2DECHO and BERA screening is still pending. The Prospective Adoptive Parents have

countersigned the said report, which is on record at page Nos. 110-119 to the petition.

14. The HIV Report of the said male minor dated 14th March 2024 certifies the case as Negative. This Report is on record at page No. 121 to the Petition. The post card size photograph of the said male minor is on record at page 122 to the petition.

15. 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 male minor. The said Declaration is on record at page Nos. 37-38 to the petition.

16. The pre-adoption foster care undertaking dated 11th July 2024 is on record at page Nos. 39-40 to the Petition.

17. As regards the change of name, the prospective adoptive parents desire that the said male minor “Shiv” be renamed as “I. Darrshan Adhitya”.

18. The Undertaking dated 28th June 2024 given by the Specialized Adoption Agency “Kalaiselvi Karunalaya Social Welfare

Society”, Chennai, Tamil Nadu for furnishing post adoption follow-up reports is on record at page No. 128 to the petition.

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

20. Ms. Vandana Chinchakar, the Scrutiny Officer present at today’s hearing has tendered the Report of Mr. O. Hareendran, Scrutiny Officer of Indian Council of Social Welfare dated 21st September 2024, which is taken on record and marked “X” for identification.

21. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 21st September 2024, which is marked X, I am of the view that it would be in the interest of the said male minor child, that he is adopted by the Proposed Adopters.

22. 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

1 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.”

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

24. 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 I. Darrshan Adhitya 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 male minor I. Darrshan Adhitya 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 I.

Darrshan Adhitya, born on 6th March 2024 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 Shiv to "I. Darrshan Adhitya".

25. 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 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 his becoming a major. These undertakings are accepted as undertakings given to this Court.

26. The Judge's order is accepted and signed separately.

27. The Indian Adoption Petition is accordingly disposed of. There shall be no order as to costs.

[R. I. CHAGLA J.]

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