

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

INDIAN ADOPTION PETITION NO. 90 OF 2024
WITH
JUDGE'S ORDER NO. 137 OF 2024
IN
INDIAN ADOPTION PETITION NO. 90 OF 2024

St. Catherines Home Part of St.
Catherines Society

...Petitioner

And.

1. Mr. Amit Jaswani
2. Mrs. Savita Jaswani.

... 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 : 18 OCTOBER 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the male minor
Karan (“**the said male minor**”) born on 17th December 2023. The said

male minor was admitted to the Petitioner Institution on 5th January 2024 as per the order of the Child Welfare Committee (CWC), Mumbai-II, under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**"). Thereafter the birth mother executed a Deed of Surrender before the said CWC on 9th January 2024. 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 District, Mumbai declared the said male minor Karan "Legally Free for Adoption" on 15th 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 Balghat, Madhya Pradesh aged about 43 and 38 years respectively. They have been married for the past 14 years (6th February 2010) 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 24th June 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. 103-107 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 28th June 2024 states that they are mentally and physically fit to adopt a child. Their HIV I & II and Hepatitis B test reports certifies the case as Negative. These reports are on record at page Nos. 29-32 to the Petition.

8. The Prospective Adoptive Father is self-employed (own business of wholesale fruits at Kosmi) since 2011 and his annual income is Rs.3,00,000/-. His Income Affidavit and Income Certificate from Balaghat Tehsil, Government of Madhya Pradesh are on record at page Nos.42-45 to the Petition.

9. The Prospective Adoptive Mother is working as a Tally-accountant with Apsara Sales, Balaghat since 2006 and her monthly gross salary is Rs.13,000/-. Her Income and Employment Certificate and Income Certificate from Balaghat Tehsil, Government of Madhya

Pradesh is on record at page Nos.34-36 and 49-55 to the Petition.

10. The proof of Residence, Pan Card and other supportive financial documents are on record at page Nos. 34-36 & 49-55 to the Petition.

11. The childcare Plan declaration of the prospective adoptive mother and her mother is on record at Page Nos.56-59 to the Petition.

12. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos. 60-66 to the Petition.

13. The Home Study Report Part II: Assessment Reports dated 15th November 2023 of the Specialized Adoption Agency “Matrachhaya Sewabharti” Jabalpur, Madhya Pradesh have found the Prospective Adoptive Parents suitable for adopting a child. This report is on record at page Nos. 67-71 to the Petition.

14. The child security undertaking dated 27th June 2024 of the Prospective Adoptive Mother’s sister and brother-in-law residing at Kosmi, Balaghat, Madhya Pradesh to look after the said male

minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 83-86 to the Petition.

15. The Medical Examination Report of the said male minor dated 23rd May 2024 states “Health status : Normal. Overall Observation of the child : The said male minor has achieved most of the milestones expected for his age and has not had any medical issues since birth. 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. 90-99 to the petition.

16. The HIV Report of the said male minor dated 12th January 2024 certifies the case as Negative. This Report is on record at page No. 120 to the Petition.

17. The Declaration of consent, willingness 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.

18. The pre-adoption foster care undertaking dated 27th June 2024 is on record at page Nos. 39-43 to the Petition.

19. As regards the change of name, the prospective adoptive parents desire that the said male minor “Karan” be renamed as “Prince Jaswani”.

20. The Undertaking dated 15th June 2024 given by the Specialized Adoption Agency “Matrachhaya Sewabharati” Jabalpur, Madhya Pradesh for furnishing post adoption follow-up reports is on record at page No. 108 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 05th May 2025.

22. 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 28th September 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 28th 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.

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 :

“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

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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 minor Prince Jaswani 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 Prince Jaswani 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 Prince Jaswani, born on 17th December 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 'KARAN' to "Prince Jaswani".

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 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.

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

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

[R. I. CHAGLA J.]

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