

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

INDIAN ADOPTION PETITION NO. 97 OF 2024

WITH

JUDGE'S ORDER NO. 151 OF 2024

IN

INDIAN ADOPTION PETITION NO. 97 OF 2024

St. Catherine's Home

...Petitioner

And

**Narvadeshwar Pandey and Babita
Pandey**

**...Prospective
Adoptive Parents**

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

Mr. O. Hareendran, Scrutiny Officer-ICSW, Present.

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

CORAM : R.I. CHAGLA, J.

DATE : 11th DECEMBER, 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Kush born on 11th May, 2023. The said

male minor was found abandoned by the Dindoshi Police Station on 19th May, 2023 and produced before the Child Welfare Committee (CWC), Mumbai Suburban-II and the child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 19th May, 2023 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 the inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban-II declared the said male minor Kush "Legally Free for Adoption" on 21st July, 2023. The Free for adoption order is on record at page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Patna, Bihar aged about 47 and 48 years respectively. They have been married for the past 28 years (19th June, 1996) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No.32 to the Petition.
5. The Minutes of Adoption Committee Meeting held on 27th October, 2023 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.100-104 to the Petition.
7. The Medical Report of the Prospective Adoptive Parents dated 2nd November, 2023 states that both are physically and mentally fit to adopt a child. Their HIV I & II and Hepatitis B 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 Shipai in Indian Army since 1994 and his gross salary for the

Assessment Year 2023-24 is Rs.5,84,736/-. His Form No. 1, Pay Slips and Income Tax returns are on record at page Nos.40-46 to the Petition.

9. The Prospective Adoptive Mother is a Homemaker.

10. The proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos.33-35 and 46A-49 to the Petition.

11. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.50-65 to the Petition.

12. The Home Study Report Part II: Assessment Reports dated 6th January, 2020 and 17th May, 2023 of the social worker of Srijani Specialized Adoption Agency, Danapur, Patna, Bihar have found the Prospective Adoptive Parents suitable for adopting a child. These Reports are on record at page Nos.66-73 to the Petition.

13. The child security undertaking dated 6th August, 2024 given by the Prospective Adoptive father's brother and sister-in-law residing at Shahpur, Patna, Bihar to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.83-84 to the Petition.

14. The Medical Examination Report of the said male minor dated 22nd August, 2023 states 'Health Status: Normal. Overall Observation of the child: He seems to be growing well physically and neurologically.' The Prospective Adoptive Parents have countersigned the Medical Examination Report, which is on record at page Nos.88-96 to the Petition.

15. The HIV test report of the said male minor dated 1st June, 2023 certifies the case as Negative, which is at page No.98 to the Petition. The Post Card Size Photograph of the minor is at page No.99 to the Petition.

16. 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 male minor. The said declaration is on record at page Nos.36-37 to the Petition.

17. The Pre-adoption foster care undertaking dated 20th October, 2023 is on record at page Nos.38-39 to the Petition.

18. The undertaking dated 23rd October, 2024 given by the Authorities of “Srijani Specialized Adoption Agency”, Danapur, Patna, Bihar for furnishing post adoption follow-up reports is on record at page No.105 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 5th May, 2025.

20. The Scrutiny Officer Mr. O. Hareendran has tendered the Report/Representation of the Indian Council of Social Welfare dated 14th November, 2024, which is taken on

record and marked 'X' for identification.

21. Having considered the material on record as well as report of the Scrutiny Officer Mr. O. Hareendran dated 14th November, 2024, which is marked 'X' for identification, I am of the view that it would be in the interest of 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 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

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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 considered 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 Vaibhav Pandey 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 Vaibhav Pandey 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 Vaibhav Pandey, born on 11th May, 2023 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'KUSH' to "Vaibhav Pandey"."

25. There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.1,00,000/- (Rupees

One Lakh Only) in the name of Adopted Child. Further there is an undertaking not to withdraw this investment until the Adopted child attains majority. The Adoptive Parent has agreed to handover investment receipts to the Adopted child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

26. The Judge's Order is also 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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