

Sajakali Jamadar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 31 OF 2024
WITH
JUDGE'S ORDER NO.161 OF 2024

Maharashtra State Women's Council Adoption
Group at Maharashtra State Women's Council,
Asha Sadan Balgruh, Asha Sadan Marg,
Umerkhadi, Mumbai 400 009 through its
Convenor/Authorised Signatory, ...Petitioner
Mrs.Lalita Godbole, aged 75 years

And

1. Dario Gozzini, aged 42 years,
Occupation : Service and his wife,

2. Elina Frascati, aged 35 years,
Occupation : Service,
Italian Nationals, both residing at
126 E, Lungagnana Street, 500025,
Montespertoli (Florence Italy). ... Proposed
Adoptive Parents

Ms. Dipal Sanjanwala Mehta for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer present.
Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 18TH DECEMBER 2024.

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Proposed Adopters are seeking adoption of the female minor ‘Siddhi’ (“**the said female minor**”) born on 12.07.2023. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai City-II on 21.08.2023 and the safe custody of the said female minor was given to the Petitioner institution on the same day as per the order of the CWC dated 21.08.2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The custody order of the said CWC is on record at Page No.138 to the Petition.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the Child Welfare Committee, Mumbai City-I declared the said female minor “Legally Free for Adoption” on 31/10/2023. The Free for Adoption Certificate is on record at Page Nos. 139-141 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate (dated 17/10/2024) to

this adoption as per Adoption Regulations 2022 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993. The said No Objection Certificate can be found at Page No. 145 to the Petition.

4. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of the said female minor is on record at Page Nos. 131-137 to the Petition.

5. The Prospective Adoptive Parents are Italian Nationals, residing at Florence, Italy aged about 42 and 35 years respectively. They have been married for the past 3 years (10/09/2021) with no biological children. The Prospective Adoptive Mother was married earlier on 25/07/2015 and divorced on 16/09/2016 with no biological children. The Divorce Decree is on record at page Nos. 113-121 to the Petition.

6. The Prospective Adoptive Parents joint photograph and copies of Passport are on record at page Nos. 47-50 & 124-130 to the Petition.

7. The Motivation Letter of the Proposed Adopters is on record at page Nos. 20-23 to the Petition.

8. The Medical Reports dated 23/09/2024 of the Prospective Adoptive Parents states, "The health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway". Their HIV and HBsAg test reports certify the case as Negative. These reports are on record at Page Nos. 79-112 to the Petition.

9. The Prospective Adoptive Father is working as a Protection Consultant with UniCredit SPA, Italy since 18/07/2005 and his total income for the year 2023 is Euro 38,528. His Employment Certificate and Income Certification from Italian Revenue Agency are on record at page Nos. 211-216, 223-225 & 230-237 to the Petition.

10. The Prospective Adoptive Mother is working as an Administrative Accounting Instructor at the Revenue Department of Montespertoli Municipality since 01/09/2021 and her total income for the year 2023 is Euro 23,447. Her Employment Certificate and

Income Certification from Italian Revenue Agency are on record at page Nos. 217-222,226-229 & 238-245 to the Petition.

11. The Residences Certificate and Declaration of Assets and Financial status of the Prospective Adoptive Parents are on record at page No. 51-66 & 196-210 to the Petition.

12. The childcare arrangement plan undertaking by the Prospective Adoptive Parents is on record at page Nos. 254-257 to the Petition.

13. The Home study report dated 07/05/2024 by the authorities of “Mehala Families for Children”, Italy has found the Prospective Adoptive Parents suitable for adopting the said female minor. The said report is on record at page Nos. 172-181 to the Petition.

14. The Psychological Evaluation report of Doctor Laura Ferrari, Psychologist dated 03/05/2024 is on record at page Nos. 182-185 to the Petition. It states that the Prospective Adoptive Parents appear as a very united and solid couple. They have shown

that they have the ability to reflect on themselves and the partner too.

15. The Permission from the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 195-195A to the Petition.

16. The child Security undertaking dated 01/10/2024 of the Prospective Adoptive Father's Sister residing at Viareggio, Italy to take care of the said female minor in case of any unforeseen mishap to the proposed adopters is on record at page Nos. 258-263 to the Petition.

17. The Medical examination report of the said female minor dated 30/01/2024 states "Health Status: Special Needs. Overall observation of the child: An infant with CHD (small ASD 3mm in heart)". The Prospective Adoptive Parents have countersigned this report which is on record at page Nos. 153-167 to the Petition.

18. The H.I.V. report of the said female minor dated 12/03/2024 certifies the case as Non-Reactive. This report is on

record at page No. 170 to the Petition. The post card size photograph of the said female minor is on record at page No.171 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor '**Siddhi**' be renamed as "**Siddhi Gozzini**".

20. The Declaration of consent and undertaking of proposed adopters states that they are willing to adopt the said female minor. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency for follow up of the progress of the child as required under the Adoption Regulations. The said Declaration is on record at page Nos. 280-282 & 284-285 to the Petition.

21. The undertaking dated 03/09/2024 of the Authorized Foreign Adoption Agency (AFAA) "Mehala Child & Family Association", Italy to provide follow-up report of the said female minor and make alternative arrangement in case of disruption of the adoptive family is on record at page No. 286-287 to the Petition.

22. The copy of Power of Attorney dated 10/09/2024 duly executed by the Prospective Adoptive Parents in favour the Petitioner institution is on record at page Nos. 290-292 to the Petition.

23. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 05/05/2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 12/12/2024 which is taken on record and marked "X" for identification.

25. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer 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 Prospective Adopters.

26. 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.”*

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

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

“(a) This Hon’ble Court may be pleased to appoint the Proposed Adoptive Parents Mr. Dario Gozzini and Mrs. Elina Frascati as the parents of the female minor, **Siddhi** now in the care of Maharashtra State Women’s Council Asha Sadan Balgruh, Asha Sadan Marg, Umderkhadi, Mumbai-400 009’,

(b) That the Proposed Adoptive Parents be allowed to change the name of the minor’ **Siddhi**’ to ‘**Siddhi Gozzini**’,

(c) That the Proposed Adoptive Parent may be granted leave to remove the aforesaid child **Siddhi @ Siddhi Gozzini** from the jurisdiction of this Hon’ble Court and to take the minor along with them, to their home i.e. wherever they may require them to,

(d) That the Petitioner be granted leave to apply to the Concerned Municipal Authorities to issue a Birth Certificate of female minor ‘**Siddhi Gozzini**’ showing The name of the proposed adoptive parents,

Mr. Dario Gozzini and Mrs. Elina Frascati as his Parents.

(e) That the concern Municipality/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days From the date of application of the Petitioner, as per the Provisions of regulation 36 of the Adoption Regulations,

(f) The concerned Regional Passport Office may be directed to issue Passport for the said **‘Siddhi Gozzini’** within ten days from, the date of application as per sub-regulation (4) of regulation 18 and regulation 38.”

29. The Judge’s Order is accepted and signed separately.

30. It is directed that the Petitioner institution will obtain further undertakings from the Adoptive Parents that they shall not give the Adopted Child 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.

31. There shall be no order as to costs.

[R.I. CHAGLA J.]

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