

Sajakali Jamadar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO. 100 OF 2024
WITH
JUDGE'S ORDER NO. 162 OF 2024

Vatsalya Trust

...Petitioner

And

1. Mr. Ashish Vishnu Pai
2. Mrs. Dhanashri Ashish Pai

... Prospective
Adoptive Parents

Ms. Sangeeta A. Nagpal for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer, ICSW, present.

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

Ms. Dhanashri Ashish Pai - Adoptive Mother a/w Kum. Shreshtha @
Shreya Ashish Pai present in Chamber.

CORAM : R.I. CHAGLA J

DATE : 18TH DECEMBER 2024.

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Proposed Adopters have sought adoption of the female minor 'Shreshtha' (**"the said female minor"**) born on 26.12.2023.

2. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District on 02/01/2024 and the child's custody was given to the Petitioner institution Vatsalya Trust, Mumbai on the same day as per the order of the CWC dated 02/01/2024 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("**the said Act**"). The Admission Order is on record at page No. 88 to the Petition.

3. After making due inquiry under section 38 of the said Act, the CWC, Mankhurd, Dist. Mumbai declared the female minor Shreshtha "Legally Free for Adoption" on 16/04/2024. The Free for Adoption Certificate is on record at page Nos. 85-86 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Vile Parle East, Mumbai aged about 50 years and 45 years respectively. They have been married for the past 13 years (11/06/2011) with no biological children.

5. The Motivation Letter of the proposed Adopters is on record at Page No. 67 to the Petition.

6. 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. 100-104 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 26/06/2024 is on record at page No. 82 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Medical report of the Prospective Adoptive Parents dated 09/06/2024 states that they do not have any physical or mental condition, which would impair their ability to care for an adoptive child. Their HIV & HBsAgh test reports certify the case as Non-Reactive. The said report is on record at page Nos. 32-38 to the Petition.

9. The Prospective Adoptive Father is working as a Chief Financial Officer with Karmayogi Bharat, New Delhi since 21/08/2023 and his monthly (May-2024) gross salary is Rs. 5,34,402/-. His Employment Certificate, Pay slip and Income Tax Return are on record at Page Nos. 41-42 & 44-46 to the Petition. The Prospective Adoptive Mother is currently a Homemaker.

10. The copies of PAN card, Proof of Residence and supportive financial documents are on record at page Nos. 24, 26, 40 and 47-49 to the Petition.

11. The Home study report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos.50-58 to the Petition.

12. The Home Study Report Part II: Assessment report dated 28/08/2022 of the Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombvli, Dist. Thane has found the Prospective Adoptive Parents suitable for adopting a child. The said Home study report is on record at page Nos. 59-65 to the Petition.

13. The child security undertaking dated 04/06/2024 given by the Prospective Adoptive Mother’s brother and sister-in-law residing at Dombivali, Dist. Thane, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 68-70 to the Petition.

14. The Pre-adoption foster care undertaking dated 10/06/2024 is on record at page No. 89-92 to the Petition.

15. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents is on record and it 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.93-96 to the Petition.

16. The Medical Examination Report of the said female minor dated 24/05/2024 states the “Health status of the child: Normal child. Overall Observation of the child: Up to now her overall mental and physical development is within normal limits”. The Prospective Adoptive Parents have countersigned the said Report. The said Report is on record at Page Nos.74-80 to the Petition.

17. The HIV report of the said female minor dated 18/05/2024 certifies the case as Negative. This report is on record at page No. 81 to the Petition.

18. The Post Card Size Photograph of the said female minor is on record at page No.97 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Shreshtha’ be renamed as “Shreya Ashish Pai”.

20. The undertaking dated 22/06/2024 given by the authorities of Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombvli, Dist. Thane for furnishing post adoption follow-up reports is on record at page No.90 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 05/07/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 14/12/2024 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 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.

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 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 (e) of the Petition, which read thus:-

- “(a) For adoption of the proposed male minor Shreshtha @ Shreya Ashish Pai born on 26/12/2023 under Juvenile Justice Act by Proposed Adoptive Parents.
- (b) For declaring the proposed adopters as adoptive parents of the said minor and shall have all parental rights, privileges and Responsibilities over the said minor Shreya Ashish Pai.
- (c) That the proposed adopters be granted permission to change the Name of minor SHRESHTHA to Shreya Ashish Pai.
- (d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Shreya Ashish Pai born on 26/12/2023 and stating thereon that the Prospective Adoptive Parents as the Parent of the said minor.

- (e) 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."

27. The Judge's Order is accepted and signed separately.

28. There is an undertaking of the Adoptive Parents in the Judge's Order that they will create a fixed deposit for an amount of Rs. 2,00,000/- (Rupees Two Lakhs only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive Parents has agreed to handover investment receipts to the Adopted child on his becoming a major. These undertakings are accepted as an undertaking to this Court.

29. Indian Adoption Petition is accordingly disposed of.

30. There shall be no order as to costs.

[R.I. CHAGLA J.]

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