

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

FOREIGN ADOPTION PETITION NO. 1 OF 2025
WITH
JUDGE'S ORDER NO. 5 OF 2025

MAHARASHTRA STATE WOMEN'S COUNCIL)
ADOPTION GROUP)...PETITIONER

AND

1) JUAN PEDRO RUIZ GARCIA)
2) ANTONIA HORTA OJEDA)...PROPOSED
ADOPTIVE PARENTS

Ms.Dipal S. Mehta, Advocate for the Petitioner.

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

Mr.Dilip Gurav, Chamber Registrar, present.

Mrs.Ujwala Ashtankar, Social Worker, present.

Ms.Natalia Lopez, Social Worker of AFAA.

Mr.Juan Pedro Ruiz Garcia and Ms.Antonia Horta Ojeda, Proposed
Parents through Video Conferencing.

CORAM : ABHAY AHUJA, J.

DATE : 30th JANUARY 2025

P.C. :

1. Pursuant to earlier order of this Court dated 16th January 2025, today this matter has been listed for an interaction with the prospective parents through video conferencing for ascertaining the suitability of

the prospective parents to adopt Swaraj a child with special needs of the nature described in the Petition and also in the Medical reports.

2. When the matter is called out, Ms. Deepal Mehta, learned Counsel appears for the Petitioner and tenders true copy of the Medical Certificate dated 30th January 2025 and copy of follow up card dated 25th November 2024 in respect of the minor and copy of an email dated 5th September 2024 from the concerned Authorized Foreign Adoption Agency (AFAA) to Maharashtra State Women's Council (MSWC) Adoption Group confirming acceptance of the minor after perusal of Medical Examination Report. The certificate tendered today by Ms. Mehta indicates that Dr. Nazim A. Naik, Newborn & Child Specialist, has certified that he has examined the child on 30th January 2025 and has found no acute illness and that at present he is on treatment for oral iron and vitamin D supplement and at present has no other illness medication. The said documents are taken on record. Let the said documents also be furnished to the Prospective Adoptive Parents as well as the AFAA.

3. As noted in the earlier order, Swaraj suffers from a congenital heart disease / cardiac disorder commonly known as hole in the heart

(page 101) as well as Dolichocephaly which involves a long head and weak bones (page 100) and related motor nerve issues and that after physiotherapy for two months, when he was seven months old, he has achieved certain motor milestones. That due to this condition, Swaraj is a child with special needs.

4. This Court had, therefore, after observing the eagerness of the prospective adoptive parents to adopt Swaraj but considering that Swaraj is a child with special needs, considering the aforesaid medical condition, for assessing the welfare of the child and also suitability of the prospective adoptive parents to adopt the child with special needs as above and of the nature described in the Petition, directed that there be an interaction with the prospective adoptive parents as well as a responsible person from the Spanish agency viz. Children Without Frontiers and also to address the queries that may be raised by this Court at the time of interaction.

5. The hearing of this Petition is being conducted in camera, where only the Counsel for the Petitioner, the representative of the Petitioner and the representative of the ICSW and the child Swaraj with his caretaker, in addition to Court staff are physically present and the

prospective adoptive parents, Mr.Juan Pedro Ruiz Garcia and Ms.Antonia Horta Ojeda, are present through video conferencing facility of this Court along with Ms.Natalia, Social Worker of AFAA, authorised representative in Spain.

6. Upon a query from this Court to Ms.Mehta as to whether after considering the medical report and the certification that Swaraj is a special child, whether any further Report as to the suitability of the parents to take care and to bring up a special child such as Swaraj is in place, Ms.Mehta fairly submits that the Home Study Report is prior to identification of Swaraj as the prospective adoptive child. The prospective parents are online and I have also interacted with them online and it appears that the couple, Mr.Juan Pedro Ruiz Garcia and Ms.Antonia Horta Ojeda, are very eager to adopt a child and are excited to interact with Swaraj.

7. While this Court appreciates enthusiasm of the prospective parents to have Swaraj as their child, however, what is of paramount importance is the welfare of the minor child, keeping in mind the objective and the purpose of the Juvenile Justice (Care And Protection Of Children) Act, 2015.

8. While interacting with the prospective adoptive parents today as well as with Natalia, who is a social worker with Ninos Sin Fronteras, I have expressed this Court's concern with respect to the ability and the capacity of the prospective adoptive parents to deal with Swaraj's condition and special needs as well as the Spanish State facilities for his care and therefore, I am of the view that Ninos Sin Fronteras (Children Without Frontiers), the AFAA furnish to this Court a further report as well as a report from a Spanish/Madrid/Ciudad Real equivalent of a Civil Surgeon in Mumbai, on the following two aspects:-

(i) that the prospective parents viz. Mr. Juan Pedro Ruiz Garcia and Ms. Antonia Horta Ojeda are not only financially and physically suitable, having the time, the resources and wherewithal for Swaraj's treatment and therapies, to adopt Swaraj, who is a special needs' child suffering from a congenital heart disease of hole in the heart as well as Dolichocephaly which involves a long head and weak bones and related motor nerve issues but also emotionally mature to accept him and to care for him and handle his special needs; and

(ii) in the event this adoption is allowed and Swaraj is accepted as a citizen of Spain, the State facilities available in Madrid/Ciudad Real, Spain for Swaraj's treatment, care, rehabilitation and dignified life with his attendant condition, disabilities and special needs.

10. Let the aforesaid be furnished under an affidavit duly notarized/apostilled in Spain within a period of two weeks.

11. List on **20th February, 2025.**

(ABHAY AHUJA, J.)

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