

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

INDIAN ADOPTION PETITION NO. 101 OF 2024
WITH
JUDGE'S ORDER NO.163 OF 2024**

Vatsalya Trust, Mumbai ...Petitioner
AND
Mr. Nilesh Panditrao Shinde and
Mrs. Rhutika Nilesh Shinde ...Prospective Adoptive Parents

Ms.Sangeeta A. Nagpal, Advocate for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer, ICSW present.
Ms.Anupama Dhuri-Social Worker is present.
Mr. Nilesh Panditrao Shinde a/w Mrs. Rhutika Nilesh Shinde a/w.
Krushnaraj Nilesh Shinde (minor) are present.
Mr. Dilip Gurav, Chamber Registrar, present.

CORAM : **ABHAY AHUJA, J.**
DATE : **27th FEBRUARY, 2025**

ORDER :

1. This Indian Adoption Petition by the Petitioner seeks an order permitting adoption of a female minor named Manan born on 17th January, 2024 by the Prospective Adoptive Parents. The biological mother had surrendered the minor before the Child Welfare Committee (“CWC”) Mumbai Suburban District on 23rd January, 2024 and the minor was admitted to the Petitioner Institution on the same day as per order dated 23rd January, 2024 of the CWC 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 Exhibit F to the Petition.

2. Mr.O.Hareendran, Scrutiny Officer, Indian Council of Social Welfare (“ICSW”), present at today’s hearing has tendered the representation dated 12th February, 2025 of ICSW which contains a chronology of all the approvals and reports necessary for adoption with a request to consider the same before passing the final order. The said representation is taken on record and marked “X” for the purposes of identification.

3. Ms.Sangeeta A. Nagpal, learned Counsel appearing for the Petitioner has taken me through the various approvals and reports. The learned Counsel has tendered today post-placement report of the child dated 14th January, 2025, photocopies of two LIC policies and premium paid certificate of max life insurance policy of prospective adoptive father and statement of investment in Upstox Securities Private Limited of prospective adoptive mother. The said documents are taken on record.

4. I have heard Ms.Sangeeta A. Nagpal and also perused the various approvals and reports annexed to the Petition as well as the representation of the ICSW.

5. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, District Mumbai declared “Legally Free for Adoption” on 2nd April, 2024. The Free for Adoption Certificate is on record at Exhibit F to the Petition.

6. The Prospective Adoptive Parents are Indian nationals, residing at Kolhapur, Maharashtra, aged about 40 and 37 years respectively. They have been married for the past 13 years (21st March, 2011) with no biological children.

7. The Motivation letter from the Prospective Adoptive Parents is on record at Exhibit C (Page 64) to the Petition. I have also interacted with the Prospective Adoptive Parents today and note their eagerness to adopt Manan, who is under their foster care, pursuant to the Pre-adoption foster care Affidavit dated 5th November, 2024, which is on record at Exhibit G and are present with the adoptive child today.

8. Affidavit by the Chief Functionary of the Specialized Adoption Agency – Petitioner in support of Manan’s adoption is on record at Exhibit J to the Petition.

9. The Minutes of Adoption Committee Meetings held on 7th August, 2024 is on record at Exhibit E (Page 83) to the Petition which observes that the Prospective Adoptive Parents are suitable to adopt Manan.

10. The Medical Report of the Prospective Adoptive Parents dated 22nd July, 2024 is on record and it states that they are physically fit and free from contagious disease. Their HIV and HBsAg test reports certify the case as Negative. Also there is a communication from Dr. Yogesh Jadhav, Consulting Obstetrician and Gynecologist, Karmveer Maternity & Surgical Hospital, referring the prospective adoptive mother to Dr. Jay Mehta of Shree IVF Clinic and informing that the prospective adoptive mother had undergone six abortions till 5th August, 2023 and that laprohysteroscopy was also performed on her in 2022, thereby requesting Dr. Mehta to examine her and give his opinion. These reports are on record at Exhibit A to the Petition.

11. It is observed from the above that though the Prospective Adoptive Parents are in general good health, however, due to repeated miscarriages of the Prospective Adoptive Mother, instead of going for further endeavours to have a biological child, both the Prospective Adoptive Parents have decided to adopt a male child to complete their family.

12. The Prospective Adoptive father is self-employed (Proprietor of R. N. Enterprises at Kolhapur) since 1st July, 2017 and his Udhyam Registration Certificate, Income Tax Returns for the Assessment Years 2022-23, 2023-24 and 2024-25 and supportive financial documents in the nature of four LIC Policies, are on record at Exhibit B to the Petition.

13. In addition to above, today again documents are tendered and taken on record which indicate that the Prospective Adoptive father also holds a Max life insurance policy insuring his life thereby assuring an additional security to his family in case of his death. Also, the Prospective Adoptive father has invested some amounts in shares viz. in Upstox Securities Private Limited, which also benefits and adds to the financial resources of the family.

14. The Prospective Adoptive mother is a homemaker.
15. The copies of proof of residence (Electricity Bill) and PAN cards of the Prospective Adoptive Parents are on record at Exhibit A to the Petition.
16. The Home study report Part I : Self Assessment by the Prospective Adoptive Parents is on record at Exhibit C to the Petition.
17. The Home study report Part II : Assessment reports dated 25th December, 2020 and 15th November, 2023 of the Specialized Adoption Agency 'Shishu Adhar Kendra', Kolhapur, Maharashtra have also found that the Prospective Adoptive Parents are emotionally equipped enough to take care of child. The said reports are at Exhibit C to the Petition.
18. On pages 54 and 62 of the Part II of the assessment reports dated 17th November, 2023 and 25th December, 2020 respectively, of the social worker with respect to the physical and emotional capacity of the Prospective Adoptive Parents, it is observed that the prospective adoptive parents are healthy and emotionally equipped enough to take care of child. That they have good support from their family members,

neighbours and also family friends. The Prospective Adoptive Parents and mother of the Prospective Adoptive Father possess a house where they stay together which admeasures about 1,100 sq. ft consisting of 6 rooms with plot area of 3,600 sq. ft having adequate open space for the child to move around the house.

19. On page 27 of the Petition is a letter from a cousin of the prospective adoptive father to the Petitioner Trust which indicates that the prospective adoptive parents have deep commitment to family and a strong desire to become a parent. That they have always been drawn to children and have a natural ability to connect with them and they have the ability to provide a forever home filled with love, laughter and adventure for a child.

20. The Child Security Undertaking dated 4th June, 2024 given by the Prospective Adoptive mother's brother and sister-in-law residing at Kolhapur, Maharashtra to look after the proposed male minor in case of any mishap to the Prospective Adoptive Parents is on record at Exhibit D to the Petition.

21. The Medical Examination Report dated 12th July, 2024 of Manan is on record at Exhibit E to the Petition and it records that Manan is a normal child. The overall observation of the child states that the child's development is a dynamic process and may show variation with time and that at present up to now his overall mental and physical development is within normal limits. The Prospective Adoptive Parents have countersigned the Medical Examination Report.

22. The HIV test reports of the male minor dated 27th January, 2024, certifies the case as Negative. The said test report of Manan is on record at Exhibit E to the Petition. The post card size photograph of Manan is on record at Exhibit H to the Petition.

23. Also, a post-placement report of the child dated 14th January 2025 from the Specialized Adoption Agency 'Shishu Adhar Kendra' Kolhapur, which has been tendered today and taken on record, indicates that Krushnaraj (Manan) is a very active boy and keeps playing with toys and has also started recognizing Prospective Adoptive Parents very well. That, Krushnaraj (Manan) does his daily functions and wakes up and sleeps in time. The report states that Krushnaraj (Manan) has a sweet personality, good built and is healthy and very

active and cheerful child. That, Krushnaraj (Manan) seems to be bonded and mixed very well with his Prospective Adoptive Parents and also his extended family members and is very well taken care of by the Prospective Adoptive Parents and their family. That, the child is growing nicely in the family.

24. The Declaration at Exhibit H to the Petition 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 Manan.

25. I have also seen the child today and observe that the child is comfortable with the Prospective Adoptive Parents.

26. As regards the change of name, the Prospective Adoptive Parents desire that Manan's name be changed to Krushnaraj Nilesh Shinde.

27. The undertaking dated 18th July, 2024, given by the Specialized Adoption Agency 'Shishu Adhar Kendra' Kolhapur, Maharashtra for furnishing post adoption follow-up reports is on record at Exhibit I to the Petition.

28. The Petitioner institution's recognition as per the Representation from the ICSW to place children in adoption is valid for a period upto 5th July 2025.

29. Ms. Anupama Dhuri, Social Worker, attached to the Petitioner is present and informs that Manan has been in the foster care of the Prospective Adoptive Parents since 10th August, 2024 without any complaints.

30. Having considered the material on record as well as the representation of Mr.O. Hareendran, Scrutiny Officer, ICSW, dated 12th February, 2025, as well as the submissions by Ms. Sangeeta A. Nagpal for the Petitioner and considering that Manan has been in the foster care of the Prospective Adoptive Parents without any complaints and having interacted with the Prospective Adoptive Parents as well, I am satisfied that it would be in Manan's interest and welfare that he is adopted by the Prospective Adoptive Parents.

31. Since Manan is of 13 months 11 days, it is not possible to give consideration to his wishes but as *parens patriae*, I am of the view that the adoption will secure his upbringing and future. From the

proceedings before me and the interaction with the proposed adoptive parents as well as the social worker, Mr. Hareendran, Scrutiny Officer and the learned Counsel, it does not appear to me that this is a case where any consideration has been given or agreed to be given in consideration for the adoption nor any material has been placed before me or brought to my notice to hold otherwise.

32. In view of the order dated 10th January 2023 of this Court in the case of ***Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors¹***, concerning challenge raised to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, this Court has jurisdiction to consider and dispose of the present Petition. The relevant portion of said order of the 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.

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065 of 2022)

(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."

33. Ergo, the Petition is allowed in terms of prayer clauses (a) to (e) as under :

(a) For adoption of the Proposed male minor child Manan alias Krushnaraj Nilesh Shinde born on 17th January, 2024 by Proposed Adoptive Parents under the said Juvenile Justice Act.

(b) For declaring the Proposed Adoptive Parents as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor Manan @ Krushnaraj Nilesh Shinde.

(c) That the Proposed Adoptive Parents be granted permission to change the name of minor Manan to Krushnaraj Nilesh Shinde.

(d) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Krushnaraj Nilesh Shinde, born on 17th January, 2024

and stating thereon that the Prospective Adoptive Parents as the Parents 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.

34. The Judge's order is accepted and signed separately. 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 the adopted child. They have also undertaken not to withdraw this investment till the adopted child attains majority and to hand over the investment receipt to the adopted child on his attaining majority.

35. The undertakings in the Petition and the Judge's Order are accepted as undertakings to this Court.

36. The Indian Adoption Petition accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)

Privacy Warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.

Nikita Gadgil

13/13