

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

FOREIGN ADOPTION PETITION NO. 2 OF 2025
WITH
JUDGE'S ORDER NO.5 OF 2025
IN
FOREIGN ADOPTION PETITION NO. 2 OF 2025

Janani Ashish Charitable Trust ...Petitioner

And

Mr. Stefano Geroldi & Mrs. Claudia Facchini ...Proposed Adopters

Mr.R.K.L.Kapoor, Advocate for the Petitioner.

Child-Falguni was present

Mrs. Vandana Patil, Dy. Director of Petitioner.

Mrs. Vandana Chincholkar, Social worker, ICSW,

Ms. Sara Andreis, Translator.

Ms. Gulia Crippa, representative of AFFA, Italy, International Adoption.

Both the proposed adopters present through VC.

Mr. Dilip Gurav, Chamber Registrar present.

CORAM : ABHAY AHUJA, J.
DATE : 23rd JANUARY, 2025
(IN CHAMBER)

ORDER :

1. By this Foreign Adoption Petition, the Petitioner - Janani Ashish Charitable Trust is seeking orders and directions of this Court for adoption of the female minor Falguni by the proposed adopters viz. Mr. Stefano Geroldi and Mrs. Claudia Facchini under Section 59(7) of the Juvenile Justice Act, 2015 and for other connected/ consequential prayers.

2. Mr. Kapoor, learned Counsel appearing for the Petitioner-Trust has taken this Court through the various approvals and permissions for a foreign adoption as annexed to the Petition.

3. Mr. Kapoor has submitted that the adoptive child-Falguni is a four years old female minor, whose custody was given to the Petitioner institution pursuant to the order dated 20th March, 2020 of the Child Welfare Committee (“CWC”) and by order dated 18th June, 2020, she has been declared legally free for adoption for her permanent rehabilitation.

4. Mr. Kapoor has drawn this Court’s attention to Falguni’s medical examination report which has been signed by the Associate, Professor and Deputy Medical Superintendent of Chhatrapati Shivaji Maharaj Hospital, Kalwa, Thane, which certifies that Falguni is a child having special needs as she is affected by Neonatal Sepsis, Cerebral Palsy, Intellectual disability, Epilepsy and malnutrition.

5. The said report at pages No. 163 and 164 records that Falguni has brain lesions resulting in physical, neurological, and cognitive impairment and has hypertonia, microcephaly and seizure disorder and

that she has been undergoing physiotherapy, occupational therapy and anti-convulsant treatment (ACT) regularly.

6. Mr. Kapoor duly assigned by Mrs. Patil, Deputy Director of the Petitioner submits that pursuant to the therapies and treatments there is considerable improvement in her activities: she obeys commands, walks unsupported and speaks monosyllables. That there are no new seizures in view of the medication administered.

7. The Report at page No. 164 records the overall observation of the child that Falguni is a developmentally challenged girl with seizure disorder, however, on treatment she has shown considerable improvement in her activities and behaviour. It is submitted that this report has been counter signed by the proposed adopters viz. Mr. Stefano Geroldi and Mrs. Claudia Facchini, as having read and understood the contents of the medical examination report and are willing to accept the Falguni as their adopted child.

8. Mr. Kapoor submits that at page 113 is the report of Mehala-Families for children, which is the Authorised Foreign Adoption Agency (AFAA) from Italy. Mr. Kapoor submits that this is a Home Study Report, which describes the ability, capacity and suitability of the

adoptive parents to adopt a child even with possible special needs. In support Mr. Kapoor draws the attention to page No. 115, which contains the couple's financial situation, to page No. 116, which provides for the desired child and considerations on possible special needs. Mr. Kapoor submits that the couple would also welcome children, who are presented with seizure episodes, either if an antiepileptic drug was administered or if none was administered. He submits that the couple is also in favour of adopting a child with learning disabilities or language delay, albeit not severe.

9. It is observed from the last paragraph in column-H at page No. 116 that the availability expressed by the couple is reasonable and sufficient to be considered a resource for a child belonging to the special needs category.

10. Since the request of the adoptive parents is of a boy or a girl from international adoption older than four years of age, the said request has been made by the AFAA, also indicating that the prospective parents are aware of and open with respect to the possibility of becoming parents to a child with special needs, as indicated in the said report. The report is of 15th June, 2023.

11. 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 Falguni with her caretaker, in addition to Court staff are physically present and the prospective adoptive parents, Mr. Stefano Geroldi & Mrs. Claudia Facchini, are present through video conferencing facility of this Court along with Ms. Gulia Crippa, Mehala's authorised representative in Italy and Ms. Sara Andries, who is acting as the translator from Italian to English and vice a versa.

12. I have seen the child Falguni and also the reports as pointed out by Mr. Kapoor and the representation by ICSW by Ms. Chincholkar from the ICSW.

13. Upon a query from this Court to Mr. Kapoor as to whether after considering the medical report and the certification that Falguni is a special child, whether any further Home Study Report as to the suitability of the parents to take care and to bring up a special child such as Falguni is in place, Mr. Kapoor fairly submits that the Home Study Report is prior to identification of Falguni 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. Stefano Geroldi and Mrs. Claudia Facchini, are very eager to adopt a child and are excited to interact with Falguni.

14. While I very much appreciate the prospective parents' enthusiasm to have Falguni 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.

15. I am, therefore, of the view that Mehala, the AFAA furnish to this Court a further report as well as a report from a Milan/Italian equivalent of a Civil Surgeon in Mumbai, on the following two aspects:-

(i) that the prospective parents viz. Mr. Stefano Geroldi and Mrs. Claudia Facchini are not only financially and physically suitable, having the time and the resources and wherewithal for her treatment and therapies, to adopt Falguni, who is a special needs' child suffering from brain lesions resulting in physical / neurological and cognitive impairment, hypertonia, microcephaly and seizure disorder and developmentally challenged girl, with 50% disability requiring continuous physiotherapy, occupational therapy and anti-convulsant

treatments regularly, but also emotionally mature to accept her and to care for her and handle her special needs; and

(ii) in the event this adoption is allowed and she is accepted as an Italian citizen, adequate State facilities are available in Milan / Italy for Falguni's treatment, care, rehabilitation and dignified life with her attendant condition, disabilities and special needs.

16. Let the aforesaid be furnished under an affidavit duly notarized in Milan/Italy within a period of two weeks.

17. List on **13th February, 2025.**

(ABHAY AHUJA, J.)

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