

Sharada

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

FOREIGN ADOPTION PETITION NO. 9 OF 2025

WITH

JUDGE'S ORDER NO. 64 OF 2025

IN

FOREIGN ADOPTION PETITION NO. 9 OF 2025

Maharashtra State Women's Council
Adoption Group, Mumbai

...Petitioner

And

1. Todd Daniel Livingston and
2. Anna Lauren Livingston

...Prospective
Adoptive Parents

Ms. Dipal Sanjanwala Mehta, Advocate for the Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 25TH JUNE 2025

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of male minor Rakesh

(“**the said male minor**”) born on 03/09/2022. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai City-II on 19/09/2022 and the child’s custody was given to the Petitioner institution on the same day as per the order of the CWC dated 19/09/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act 2015, (‘the said Act’). The Safe Custody order of the CWC is on record at page No.120 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC Mumbai, City-II declared the said male minor “Legally Free for Adoption” as on 13/01/2023. The Free for Adoption Certificate is on record at page Nos.121-122 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 11/03/2025 to this adoption as per Adoption Regulations 2022 and Article 17 (c) of the Hague Convention on the Protection of the Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate is on record at page No.125 to the Petition.

4. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of

the said male minor is on record at page Nos.113-119 to the Petition.

5. The Prospective Adoptive Parents are American Nationals, residing at Mississippi, U.S.A. aged about 38 and 31 years respectively. They have been married for the past 10 years (16/05/2015) and have no biological children. However, they have one adopted son aged about 7 years (D.O.B : 04/06/2018) from Bihar, India. His medical certificate, consent letter, Adoption Order and Citizenship Certificate are on record at page Nos.85-97 to the Petition.

6. The Prospective Adoptive Parents Passport copies and Joint family photograph are on record at page Nos. 37-40 & 103 to the Petition.

7. The Motivation Letter of the Prospective Adoptive Parents is on record at page Nos.21-23 to the Petition.

8. The Medical Fitness Certificate dated 14/01/2025 of the Prospective Adoptive father is on record and states that he takes lexapro (escitalopram) 20mg daily for Depression. His depression is well-controlled with this medication and therapy. He has no

unfavorable physical, mental or psychological factors that might affect the upbringing of a child. His HIV and HBsAg test reports certify the case as Non Reactive. These reports are on record at page Nos.61-71 to the Petition.

9. The Medical Fitness Certificate dated 13/01/2025 of the Prospective Adoptive mother is on record and states that she takes no medications and has no chronic medical problems. She is suitable to adopt and parent children. Her HIV and HBsAg test reports certify the case as Non Reactive. These reports are on record at page Nos.74-84 to the Petition.

10. The Prospective Adoptive father is working as a Mission Pastor with Pinelake Church Inc, Mississippi since 03/08/2014 and his anticipated income for 2025 will be \$67,608.0.0. As per the U.S. Individual Income Tax Return 2023 their joint annual income is \$47,221. The U.S. Individual Income Tax Return 2021, 2022 and 2023, Earning Statements and Employment Certificate are on record at page Nos.201-217 & 239 to the Petition. The Prospective Adoptive mother is a Homemaker.

11. The Certificate of Residence, Bank References and Self

Declaration of Assets and Liabilities of the Prospective Adoptive Parents are on record at page Nos.43-45, 220-236 & 247 to the Petition.

12. The childcare arrangement plan statement of the Prospective Adoptive Parents is on record at page Nos.36 & 250-251 to the Petition.

13. The Home study report dated 08/05/2024 of the authorities of “Lifeline Children’s Services” U.S.A. has found the Prospective Adoptive Parents suitable for adopting a child with medical special needs. The said report is on record at page Nos.160-174 to the Petition.

14. By an Order dated 24th April, 2025 this court in addition to the Home Study Report of Lifeline Children’s Services directed the filing of a report from the Authorized Foreign Adoption Agency (AFAA) as well as a Report from the concerned State Authorities where the Prospective Adoptive Parents are residing or are to reside along with the Prospective Adoptive Child on the following two aspects:

“(i) That the Prospective Adoptive Parents

viz. Todd Daniel Livingston and Anna Lauren Livingston are not only financially and physically suitable, having the time and the resources and wherewithal for his treatment and therapies, to adopt Rakesh, who is a special needs' child suffering from congenital syphilis (and preterm birth with low birth weight), Thalassemia (V2 B type), Sandifer Syndrome (involuntary muscle spasms of the neck and head) and a child with delayed milestones, visual impairment and will require follow ups, but also emotionally mature to accept him and to care for him and handle his special needs; and

(ii) in the event this Court permits the adoption and Rakesh is accepted as an American citizen, adequate State facilities are available in the area where the Prospective Adoptive Parents resided or are to reside along with adoptive child in

America for Rakesh's treatment, care, rehabilitation and dignified life with his attendant condition, disabilities and special needs".

15. The learned Counsel appearing for the Prospective Adoptive Parents has tendered an undertaking of the Authorised Foreign Adoption Agency (AFAA) "Lifeline Children's Services" USA that the Prospective Parents are aware of the Special need status of the said male minor. The Authorised Foreign Adoption Agency (AFAA) confirms that the Prospective Adoptive Parents are financially and physically fit to adopt the said male minor and provide him necessary care. They further confirmed that facilities are available where the Prospective Adoptive Parents' reside for the treatment of said male minor and confirm that, if necessary, the State will bear the costs for the treatment of the child. The said undertaking of AFAA "Lifeline Children's Services" which has been tendered is taken on record.

16. The Psychological Evaluation reports dated 18/12/2023 and 23/01/2025 of C. Bufkin Moore, Psy. D. Clinical Psychologist is on record at page Nos.177-188 to the Petition and the reports have

found the Prospective Adoptive Parents are mentally fit persons suitable for adoption.

17. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos.197-198 to the Petition.

18. The Child Security Undertaking dated 24/01/2025 given by the Prospective Adoptive Parents Friends residing at Mississippi, U.S.A. to take care of the said male minor in case of any unforeseen mishap to the Proposed Adopters is on record at page Nos.254 to the Petition.

19. The Medical Examination Report of the said male minor dated 24/06/2024 states "Health Status: Special Needs. He is suffering from congenital syphilis (and preterm birth with low birth weight). Overall Observation of the child: MRI Brain report appears normal. However in view of medical history of pre-maturity, multiple hospitalizations, along with delayed milestones, visual impairment and speech delay, this child will need detailed follow-ups". The Prospective Adoptive Parents have countersigned this Report which is on record at page Nos.134-140 to the Petition.

20. The Medical Examination Report dated 28/11/2024 at Part E Special Needs condition of child by the Department of Pediatrics Sir. J.

J. Group of Hospitals, Mumbai is on record at page Nos.141-147 to the Petition and the report confirms the status of the said male minor as Special Needs. The Prospective Adoptive Parents have countersigned the said report.

21. The Developmental Assessment Report of the said male minor dated 11/09/2024 is on record at page Nos.150-151 to the Petition and states that the child gains a developmental age of 18 months. He needs one to one attention, reinforcement and motivation along with exposure to improve his present level of function and he is to continue physiotherapy. The Prospective Adoptive Parents have countersigned the said report.

22. The H.I.V. report of the said male minor dated 27/05/2024 certifies the case as Non-Reactive. This report can be found at page No.156 to the Petition. The post card size photograph of the said male minor is on record at page No.157 to the Petition.

23. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Rakesh' be renamed as "Caleb Scott Livingeston".

24. The Child approval Letter and undertaking of proposed

adopters is on record and states that they are willing to adopt the said male minor Rakesh born on 03/09/2022. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency (AFAA) for follow up of the progress of the child as required under the Adoption Regulations. The said Declaration is on record at page Nos.265 & 271 to the Petition.

25. The Undertaking dated 24/02/2025 of the Authorized Foreign Adoption Agency (AFAA) "Lifeline Children's Services", U.S.A. to provide follow-up reports of the child and make alternative arrangement in case of disruption of the adoptive family is on record at page Nos.268 to the Petition.

26. The Power of Attorney dated 10/02/2025 duly executed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at page Nos.274-277 to the Petition.

27. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period from 06/05/2020 to 05/05/2025. However, the Petitioner institution has applied for renewal and in the interregnum has filed this adoption petition under the provisions of Regulation 25(4)

& (5) of the Adoption Regulations 2022.

28. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 23/06/2025 which is taken on record and marked 'X' for identification.

29. Having considered the material on record as well as the Report of the Scrutiny Officer marked 'X', in my view, it would be in the interest of the said male minor that he is adopted by the Proposed Adoptive Parents.

30. 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."

31. Hence, it is clear that this Court can consider and dispose

of the present Petition.

32. 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 as the parents of the male minor, Rakesh now in the care of the Maharashtra State Women’s Council Adoption Group, Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai – 400 009,

(b) That the proposed adoptive parents be allowed to change the name of the minor, from ‘Rakesh’ to ‘Caleb Scott Livingston’

(c) That the proposed adoptive parents may be granted leave to remove the aforesaid child, Rakesh @ Caleb Scott Livingston from the jurisdiction of this Hon’ble Court and to take the minor out of India along with them, to their home i.e wherever they may require him to,

(d) That the Petitioner be granted leave to apply to the concerned Municipal Authorities to issue a Birth Certificate of male minor ‘Caleb Scott Livingston’ showing the names of the proposed adoptive parents as his parents,

(e) That the concerned Municipality / the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor ‘Caleb Scott

Livingston’ within five working days from the date of application of the Petitioner,, as per the provisions of sub-regulation 15 of the Adoption Regulations 18 and regulation 36,

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

33. It is directed that the Petitioner institution shall obtain a further undertaking 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.

34. The Judge’s Order is also accepted and separately signed.

35. The Foreign Adoption Petition is accordingly disposed of.

36. There shall be no order as to costs.

[R.I. CHAGLA, J.]

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