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

FOREIGN ADOPTION PETITION NO. 17 OF 2025
WITH
JUDGE'S ORDER NO. 123 OF 2025

Bal Asha Trust

...Petitioner

And

Mr. Anees Ahmmed Udyawar
Mrs. Naushin Ahmed Udyawar

...Proposed Adopters

Mr. Rakesh Kapoor i/b M/s. Rakesh K. L. Kapoor & Co. for the
Petitioner.

Ms. Vandana M. Chinchalkar, Scrutiny Officer, ICSW present.

Mr. Dilip .S. Gurav, Chamber Registrar is present.

CORAM : FIRDOSH P. POONIWALLA, J.
DATE : 14th NOVEMBER, 2025.

ORDER :

1. By this Foreign Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the female minor
Mehar @ Mehar Muskaan Udyawar ("the said female minor") born
on 5th November 2024.

2. The female minor Mehar, born on 5th November, 2024
was surrendered by the biological parent before the Child Welfare

Committee (CWC), Mumbai City – II on 12th November, 2024 and the said female minor's safe custody was given to the Petitioner institution Bal Asha Trust, Mumbai on the same day as per the order of the Child Welfare Committee (CWC), Mumbai City-II dated 12th November, 2024 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Admission Order of the CWC is on record at page No. 19 to the Petition.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the Child Welfare Committee, Mumbai City-II declared the said female minor "Legally Free for Adoption" on 10th February, 2025. The Free for adoption Certificate is on record at page Nos. 17-18 to the Petition.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 6th August, 2025 to this adoption as per Adoption Regulations 2022 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate is on record at Page No. 26 to the Petition.

5. The undertaking/affidavit by the Petitioner institution is

on record at page Nos. 20-25 to the Petition.

6. The Proposed Adopters are American Nationals of Indian origins (OCI Card holders), residing at Pennsylvania, U.S.A. aged about 42 and 38 years respectively, have been married for the past 14 years (10/06/2011) with no biological children. However, they have one adopted daughter now aged about 6 years (DOB: 17/10/2019) from New Delhi, India. Her Adoption Order, Birth Certificate, Certificate of Citizenship, Medical Report, Consent Letter and follow-up report are on record at page Nos. 49-70 to the Petition.

7. The Prospective Adoptive Parents Joint Family Photograph, Copies of Passport and OCI Card Certificate are on record at page Nos. 27-41 to the Petition.

8. The Medical report dated 19th June, 2024 of the prospective adoptive parents is on record and it states that they have shown no symptom of contagious or fatal disease and are fit to adopt a child. Their HIV & HBsAg Test Reports certify the case as Non-Reactive. These reports are at Page Nos. 71-78 to the Petition.

9. The Prospective Adoptive Father is working as a Fellow

Engineer with Westinghouse Electric Company LLC Pennsylvania since 6th June, 2005 and his current annual salary is \$158,120.04. His Employment & Income certificate is on record at page Nos. 79-81 to the Petition.

10. Prospective Adoptive mother is working as a Full-time Physician with Renaissance Family Practice UPMC-Inc., Pennsylvania since 1st August, 2018 and her current annual salary is \$167,400. Her Employment & Income certificate is on record at page Nos. 82-84 to the Petition.

11. The U.S. Individual Income Tax Returns 2022, 2023 & 2024, Declaration of financial conditions and Residence Certificate are on record at page Nos.85-104 to the Petition.

12. The home study report dated 14th September, 2024 of authorities of “Madison Adoption Associates” USA has found the Prospective Adoptive Parents suitable to adopt one female child, 0-3 years of age at time of referral, healthy as possible or with mild special needs from India. The said home study report is on record at page Nos. 105-124 to the Petition.

13. The Report of Psychological Evaluation dated 24th

October, 2023 of the authorities of “Cognitive Behavior Institute”, USA is on record at page Nos. 125-136 to the Petition and it states that the prospective adoptive parents present no psychological symptoms that would impair their ability to parent a child.

14. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 137-143 to the Petition.

15. The Child Security undertaking dated 6th May, 2025 given by the Prospective adoptive father’s sister and brother-in-law residing at Illinois, USA to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 157-159 to the Petition.

16. The Medical Examination report of the said female minor dated 6th February, 2025 is on record at page Nos. 163-168 to the Petition and it states that Health Status of the child is Special Needs. Her overall observation states that she is developmentally normal and receiving Iron supplements for low Hb. Her BERA Report shows moderate conductive hearing loss. and mild spasticity in all 4 limbs. The Prospective Adoptive Parents have countersigned these Reports.

17. The Medical Examination Report dated 8th May, 2025 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. 169-180 to the Petition and the report states that the said female minor's Left ear has moderate hearing loss and there is mild spasticity in all 4 limbs. The said report further confirmed the status of the said minor as Special Needs. The prospective adoptive parents have countersigned this report.

18. The undertaking for appropriate Treatment and care for the said female minor by the prospective adoptive parents is on record at page Nos.186-187 to the Petition.

19. The H.I.V. Report of the said female minor dated 16th January, 2025 certifies the case as Non-Reactive. This report is on record at page No. 190 to the Petition.

20. The Post Card Size Photograph of the said female minor is on record at page No.191 to the Petition.

21. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Mehtar' be renamed as "Mehtar Muskaan Udyawar".

22. The consent, willingness and undertaking of the Prospective Adoptive Parents are on record and it states that they are willing to adopt the said female minor. They further undertake that they will allow personal visits by the representative of the Authorized Foreign Adoption Agency (AFAA) during post-adoption follow up. The said declaration is at page Nos.192-199 to the Petition.

23. The undertaking dated 23rd May, 2025 of the Authorized Foreign Adoption (AFAA) “Children’s Home Society of Minnesota”, U.S.A. to provide follow-up reports of the child and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos. 200-202 to the Petition.

24. The Power of Attorney dated 5th May, 2025 duly executed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at page Nos. 203-204 to the Petition.

25. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 30th September, 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.

26. Mr. O. Hareendran, the Scrutiny Officer, has tendered the Representation of the Indian Council of Social Welfare dated 31st October, 2025 which is taken on record and marked 'X' for identification.

27. Having considered the material on record as well as the Representation of the Scrutiny Officer marked 'X' for identification, I am of the view that it would be in the interest of the said female minor child that she is adopted by the Proposed Adopters.

28. It is relevant to note here that in the case of ***Nisha Pradeep Pandya @ 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, a Division Bench of this Court passed an interim order dated 10th January, 2023. The relevant portion of the 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:

¹ WP(L) No.32065 of 2022

(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."*

29. Hence, it is clear that this Court can consider and dispose of the present Petition.

30. In these circumstances, the Petition is allowed in terms of prayer Clauses (a) to (e) of the Petition, which read thus:-

“(a) For the Adoption of the proposed female minor Meher Muskaan Udyawar, born on 05/11/2024 by the Proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Meher Muskaan Udyawar and having all parental rights, privileges and responsibilities over the said minor, now in the care and custody of the Petitioner institution

Bal Asha Trust, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai – 400 011.

(c) That the proposed adopters be allowed to change the name 'of the said minor Meher to Meher Muskaan Udyawar.

(d) Leave/permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said female minor Meher Muskaan Udyawar, born on 05/11/2024 and shows the Proposed Adopters as Parents.

(e) That the Proposed Adopters may be granted leave to remove the said minor Meher Muskaan Udyawar from the jurisdiction of this Hon'ble Court and to take the said minor to U.S.A. or wherever they may reside in future."

31. It is directed that the Petitioner Institution shall obtain further undertaking from the adoptive parents that they shall not give the said female minor child for further adoption without prior leave of this Court and once this undertaking is obtained, the same shall be filed on the record of this Court.

32. The Judge's Order is also accepted and signed separately.

33. Foreign Adoption Petition is accordingly disposed of. There shall be no order as to costs.

[FIRDOSH P. POONIWALLA, J.]

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