

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

INDIAN ADOPTION PETITION NO. 5 OF 2025
WITH
JUDGE'S ORDER NO.11 OF 2025
IN
INDIAN ADOPTION PETITION NO. 5 OF 2025

VATSALYA TRUST, MUMBAI)...PETITIONER

AND

MR. PRASHANT MARUTI SHINDE)...PROSPECTIVE
MRS. SAMIKSHA PRASHANT SHINDE)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.Prashant Maruti Shinde a/w Ms.Samiksha Prashant Shinde a/w.

Swamini Prashant Shinde (minor) are present.

Mr. Dilip Gurav, Chamber Registrar, present.

CORAM : ABHAY AHUJA, J.

DATE : 20th FEBRUARY, 2025

ORDER :

1. This Indian Adoption Petition by the Petitioner seeks an order permitting adoption of a female minor named Swamini born on 7th March, 2024 by the Prospective Adoptive Parents. The biological mother had surrendered the minor before the Child Welfare Committee

(“CWC”) Mumbai Suburban District on 12th March, 2024 and the minor was admitted to the Petitioner Institution on the same day as per order dated 12th March, 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 G 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 5th 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.

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 18th July, 2024. The Free for Adoption Certificate is on record at Exhibit G to the Petition.

6. The Prospective Adoptive Parents are Indian nationals, residing at Bhandup, Mumbai, aged about 46 and 48 years respectively. They have been married for the past 16 years (15th February, 2009) with no biological children.

7. The Motivation letter from the Prospective Adoptive Parents is on record at Exhibit C (Page 75) to the Petition. I have also interacted with the Prospective Adoptive Parents today and note their eagerness to adopt Swamini, who is under their foster care, pursuant to the Pre-adoption foster care Affidavit dated 9th September, 2024, which is on record at Exhibit H and are present with the adoptive child today.

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

9. The Minutes of Adoption Committee Meetings held on 20th September, 2024 is on record at Exhibit F (Page 92) to the Petition which observes that the Prospective Adoptive Parents are suitable to adopt Swamini.

10. The Medical Report of the Prospective Adoptive Parents dated 11th September, 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. These reports are on record at Exhibit A to the Petition.

11. The Prospective Adoptive father is working as a Deputy Manager in HDFC Securities Limited, Kanjurmarg, Mumbai employed since 6th November, 2019 and his monthly (December-2024) gross salary is Rs.55,086/-. His Employment Offer Letter, Pay Slip for the month of December-2024 and Income Tax Returns are on record at Exhibit-B to the Petition.

12. The Prospective Adoptive mother is working as an Clerk in Bombay High Court, Appellate Side, Mumbai, since 11th September, 2013 and her monthly (December-2024) gross salary is Rs.1,03,188/-.

Her Appointment Order, Pay Slip for the month of December-2024 and her Income Tax Returns are on record at Exhibit-B to the Petition.

13. The copies of proof of residence (Electricity Bill) and PAN cards of the Prospective Adoptive Parents are on record at Exhibit A. From page 66 of the Schedule VII to the assessment report of the social worker, it is observed that the savings of the couple are Rs.4,00,000/- approximately; and their investment in Public Provident Fund (PPF) is Rs.1,00,000/- approximately; they have property of one room kitchen in a Chawl at Bhandup where they are residing and a property at Panvel, a one Bhk Flat of 615 sq.ft in addition to gold ornaments. Although home loan has been taken with respect to the flat at Panvel, considering that both Prospective Adoptive Parents have stable jobs, they have the financial ability to adopt Swamini.

14. The Childcare Arrangement undertaking of the Mother of Prospective Adoptive Father is on record at Exhibits D to the Petition.

15. The Home study report Part I : Self Assessment by the Prospective Adoptive Parents is on record at Exhibit C to the Petition.

16. The Home study report Part II : Assessment reports dated 24th March, 2021 and 20th April, 2024 of the Specialized Adoption Agency 'Vatsalya Trust, Kanjurmarg, Mumbai have also found that the Prospective Adoptive Parents are suitable for adopting a child. The said reports are at Exhibit C to the Petition.

17. On page 73 of the Part II of the assessment report of the social worker with respect to the physical and emotional capacity of the Prospective Adoptive Parents, it is observed that Mr.Prashant Shinde and Ms.Samiksha Shinde are mentally, physically and emotionally stable to be parent to an adopted child and that both are balanced individuals equipped to take care of the child and having good capacity to bring up a child, handle issues related to and cope up with stress and utilize the support system.

18. The Child Security Undertaking dated 9th September, 2024 given by the Prospective Adoptive father's brother-in-law and sister residing at Kandivali (West), Mumbai to look after the proposed minor in case of any mishap to the Prospective Adoptive Parents is on record at Exhibit E to the Petition.

19. The Medical Examination Report dated 26th August, 2024 of Swamini is on record at Exhibit F to the Petition and it records that

Swamini is normal and healthy 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 her overall mental and physical development is within normal limits. The prospective Adoptive Parents have countersigned the Medical Examination Report.

20. The HIV test reports of the female minor dated 25th July, 2024, certifies the case as Negative. The said test report of Swamini is on record at Exhibit F to the Petition. The post card size photograph of Swamini is on record at Exhibit I to the Petition. I have also seen the child today and observe that the child is comfortable with the Prospective Adoptive Parents.

21. The Declaration at Exhibit I 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 female minor Swamini.

22. As regards the change of name, the Prospective Adoptive Parents desire that Swamini's name be changed to Swamini Prashant Shinde.

23. The undertaking dated 26th September, 2024, given by the Specialized Adoption Agency 'Vatsalya Trust' Kanjurmarg, Mumbai for furnishing post adoption follow-up reports is on record at Exhibit J to the Petition.

24. 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.

25. Ms.Anupama Dhuri, Social Worker, attached to the Petitioner is present and informs that Swamini has been in the foster care of the Prospective Adoptive Parents since 9th September, 2024 without any complaints.

26. Having considered the material on record as well as the representation of Mr.O. Hareendran, Scrutiny Officer, ICSW, dated 5th February, 2025, as well as the submissions by Ms.Sangeeta A. Nagpal for the Petitioner and considering that Swamini 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 Swamini's interest and welfare that she is adopted by the Prospective Adoptive Parents.

27. Since Swamini is of 11 months 14 days, it is not possible to give consideration to her wishes but as *parens patriae*, I am of the view that the adoption will secure her 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.

28. 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;

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

(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. Ergo, the Petition is allowed in terms of prayer Clauses (a) to (e) which read thus :

(a) For adoption of the Proposed female minor child Swamini @ Swamini Prashant Shinde born 7th March, 2024 by Proposed Adopters under the Juvenile Justice (Care and Protection of Children) Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor born on 7th March, 2024.

(c) That the Proposed Adopters be granted permission to change the name of minor Swamini to Swamini Prashant 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 Swamini Prashant Shinde, born on 7th March, 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.

30. 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 her attaining majority.

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

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

(ABHAY AHUJA, J.)

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