

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

FOREIGN ADOPTION PETITION NO. 3 OF 2025
WITH
JUDGE'S ORDER NO.7 OF 2025**

Children of the World India Trust
V/s.

...Petitioner

1. Timothy William Yeager
2. Sydney Renay Yeager

...Proposed Adopters

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

Ms. Betty Mathai, Senior Co-ordinator (Adoption) of Petitioner present.

Mrs. Minal Dani, Co-ordinator of Authorized Foreign Adoption Association, present.

Mrs. Vandana Chincholkar, Social worker, ICSW, present.

Mr. Dilip Gurav, Chamber Registrar present.

Both Proposed Adopters present through VC.

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

ORDER :

1. This Foreign Adoption Petition by the Petitioner seeks adoption of a male minor named Ansh born on 4th January, 2024. The male minor Ansh was admitted to the Petitioner Institution on 1st February, 2024 as per the order dated 1st February, 2024 of the Child Welfare Committee (“CWC”), Thane under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (the “said Act”). On 12th April, 2024,

the biological minor mother and her parents executed a Deed of Surrender before the CWC, for the said minor's further rehabilitation. The admission order of the CWC is on record at Exhibit A-1 to the Petition.

2. Mr. Kapoor, learned Counsel, appearing for the Petitioner has taken me through the various approvals and reports. Mrs. Vandana Chincholkar, Social Worker, attached to the Petitioner is present along with Ansh.

3. I have heard Mr. Kapoor and also perused the various approvals and reports annexed to the Petition as well as the representation of the ICSW.

4. After making due inquiry under Section 38 of the said Act, the CWC, Thane declared Ansh "Legally Free for Adoption" on 19th June, 2024. The Free for Adoption Certificate is on record, at Exhibit A to the Petition.

5. The Central Adoption Resource Authority ("CARA"), New Delhi has issued its No Objection Certificate dated 9th December, 2024 to this

Adoption as per Adoption Regulation 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 at Exhibit C to the Petition.

6. The Prospective Adoptive Parents are American nationals, residing at Texas, USA aged about 33 and 32 years respectively. They have been married for the past 10 years (10th August, 2014) with three biological children - two daughters aged about 9 and 8 years and one son aged about 5 years respectively. Their birth certificates, consent letters and health reports are on record at Exhibit D-4 to the Petition. The prospective adoptive parents joint family photograph is on record at Exhibit D to the Petition and copies of passports are on record at Exhibit D-1 to the Petition. The health reports of the proposed Adoptive Parents dated 13th February, 2024 are on record and it stated therein that they are not suffering from any chronic, contagious or fatal disease and are fit to adopt. Their HIV and HbsAG test reports certify the case as non-reactive. These reports are on record at Exhibit D-6 to the Petition.

7. The Motivation letter from the Prospective Adoptive Parents is on record at Exhibit D-5 to the Petition.

8. The Undertaking Affidavit by the Petitioner Institution is on record at Exhibit B to the Petition.

9. The Prospective Adoptive father is working as a Global Student Pastor with City Rise, USA since April, 2015 and his gross annual income is \$90,000. The Prospective Adoptive father's income and employment certificate is on record at Exhibit E to the Petition.

10. The Prospective Adoptive mother is working as an Administrative Assistant with Cardinal Senior Benefits, Texas, USA since 21st October, 2021 and her annual total income is \$42,000-. The Prospective Adoptive mother's income and employment certificate is on record at Exhibit E-1 to the Petition.

11. The U. S. Individual Income Tax Return, 2021, 2022 and 2023 are on record at Exhibit E-2 to the Petition. Their joint total income as per Tax Return 2023 is \$90,389. The bank references, financial statement and proof of residence are on record at Exhibit E-3 to the Petition.

12. The Childcare Arrangement Letter of the prospective adoptive parents is on record at Exhibit E-4 to the Petition.

13. The Home study report dated 19th January, 2024, by the authorities of “America World Adoption”, USA is on record and the report has found the prospective adoptive parents suitable for adopting one male child healthy or with special needs, 0 through 3 years old at the time of referral from India. The said Home study report is on record at Exhibit F to the Petition.

14. The psychological evaluation report of the prospective adoptive parents dated 8th November, 2023 by the licensed Psychologist, Anne Su, Psy. D. is on record and it states that the prospective adoptive parents are of mental and moral suitability to adopt. As they have provided a safe, loving and supportive home for their own children, they also expect to provide a safe, loving and supportive home for an adopted child from India. The said report is on record at Exhibit-F1 to the Petition.

15. The permission of the Receiving Country as per Article 5 of the Hague Convention is on record at Exhibit G to the Petition.

16. The child security undertaking dated 3rd October, 2024, of the prospective adoptive mother's sister and brother-in-law residing at Texas, USA to look after the said male minor in the event of any unforeseen mishap to the prospective adoptive parents is on record at Exhibit-J to the Petition.

17. The medical examination report dated 25th June, 2024 of Ansh records the health status of the child as a child with special needs- the child is low birth weight (1.5 kg) which will require Neuro developmental follow-up. His BERA report shows evidence of raised hearing threshold from both ears. The overall observation of the child is stated to be that the child moves all four limbs, gives eye contact, social smile and rolls to the sides, preferably right side and need observation regarding hearing. The said medical examination report is of Ansh and the undertaking dated 8th November, 2024 of the adoptive parents regarding medical needs is on record at Exhibit-K1 to the Petition.

18. The HIV report of the said male minor dated 5th December, 2024 certifies the case as non reactive. The said report of Ansh is on record at Exhibit-L1 to the Petition. The post card size photograph of Ansh is on record at Exhibit L2 to the Petition.

19. The Declaration at Exhibit M to the Petition of willingness and undertaking by the prospective adoptive parents states that they are willing to be appointed and declared as the adoptive parents of the male minor Ansh. They further undertake that they will allow personal visits by the Representative of the Authorized Foreign Adoption Association (“AFAA”) during post adoption follow-up.

20. As regards the change of name, the prospective adoptive parents desire that Ansh’s name be changed to “Ansh Jaboc Yeager”.

21. The undertaking dated 9th September, 2024 of the AFAA “America World Adoption”, Virginia, USA for furnishing post adoption follow-up reports of the child and make alternative arrangement in case of disruption of the adoptive family is on record at Exhibit-N to the Petition.

22. The Power of Attorney dated 12th November, 2024 duly executed by the prospective adoptive parents in favour of the Petitioner institution is on record at Exhibit- O to the Petition.

23. Representation dated 19th January, 2025 by Mr. O.Hareendran, Scrutiny Officer, Indian Council of Social Welfare (“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 is taken on record and marked “X” for the purposes of identification.

24. The Petitioner institution’s recognition as per the representation of ICSW to place children in adoption is valid for a period upto 5th May, 2025.

25. I have also interacted with the Prospective Adoptive Parents through video conferencing facility of this Court today and they are eager to adopt Ansh.

26. I have inquired from the prospective adoptive parents as to why despite having three biological children they are keen to have Ansh, who is a child with special needs as their adoptive child and they have stated that they have always wanted to grow their family through adoption as that would be a wonderful way to expand their family and also provide a loving supportive and stable home for the child. My

interaction has revealed that both Timothy and Sydney appear to be a happy family having the necessary maturity to adopt Ansh especially considering that they already have three biological children, two daughters aged 9 and 8 years respectively and one son aged about 5 years. The psychological evaluation report which has assessed the suitability of the couple as adoptive parents suggests with affirmation that the Yeagers are of mental and moral suitability to adopt having provided a safe, loving and supportive home for their biological children and that they are a strong recommendation for adoption.

27. When this Court also inquired as to how they would be able to take care of Ansh who is special needs child, both his prospective parents have submitted that they have strong community support.

28. The home study report is also encouraging and speaks well of the suitability of the prospective adoptive parents to adopt Ansh as their child. A perusal of the papers also indicates that the three biological children are also very keen to have a new sibling and cannot wait to welcome a new brother or sister to their family.

29. As far as the special needs of Ansh are concerned, the undertaking dated 11th December, 2024 at page 170, clearly indicates that :

(i) the prospective adoptive parents have had Ansh's medical report reviewed by an international specialist, two Pediatricians and an audiologist. That they are aware that Ansh was born pre-term/low birth weight, with a probable developmental delay, bilateral raised hearing threshold in both ears and mild anaemia;

(ii) that they have done their own research on raising a child with hearing loss and looked into therapies and schools in their area that cater to his specific needs.

(iii) They have stated that they know that Ansh may be a candidate of a Cochlear Implant and that they have done their own research as well. It is stated in the undertaking that Ansh will have immediate needs along with long term needs as they welcome Ansh home. The undertaking states that they plan to have Ansh evaluated by their team of doctors as soon as he is home.

(iv) It has been stated in the said undertaking that there is an amazing medical community in Houston and feel confident and that they will be able to get him the resources he needs to thrive as a child with hearing loss. That Ansh will be covered by the same insurance as their current children and will be given the same level of care.

(v) It is also stated in the said undertaking that they know there may also be medical needs that they are unaware but feel very confident that they will be able to meet any unforeseen medical, physical and emotional needs. The couple has undertaken that they are devoted to loving and accepting Ansh into their family no matter what his needs may be.

30. From a review of their employment, income and financial documents it appears that the Yeagers have the wherewithal to take care of Ansh's upbringing, having residence of their own in Houston, Texas and both are having stable jobs.

31. I have also seen Ansh today as he has been brought before me by his caretaker from the Petitioner institution and he seems to be a pleasant smiling and happy go lucky child and in my view, will adjust in his new home with the prospective adoptive parents.

32. Ergo, having considered the material on record as well as the representation of Mr. O. Hareendran, Scrutiny Officer, ICSW dated 19th January, 2025, as well as the submissions by Mr.Kapoor for the Petitioner and having interacted with the Prospective Adoptive Parents

online as well, I am of the view that it would be in Ansh's interest that he is adopted by the Prospective Adoptive Parents.

33. This Court is satisfied that the adoption is for Ansh's welfare and the prospective adoptive parents also have the wherewithal to take care of him. Since he is of 1 year, 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 special needs and upbringing. From the proceedings before me and the interaction with the proposed adoptive parents as well as the Mrs. Chincholkar, social worker, 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.

34. 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 Ors.***¹, 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 :

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

“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.”

35. The Petition is accordingly allowed in terms of prayer Clauses (a) to (e) which read thus :

(a) For the Adoption of the proposed minor Ansh Jacob Yeager, born on 04/01/2024 by the Proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2020.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Ansh Jacob Yeager, having all Parental rights, privileges and responsibilities over the said minor now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot No.9 & 10, Sector-12 Nerul, Navi Mumbai-400 706.

(c) Leave/permission be granted to apply the concerned Municipal Authorities to Birth Certificate of the said minor Ansh Jacob Yeager, born on 04/01/2024 and showing the

proposed adopters as Parents.

(d) That the Proposed Adopters may be granted leave to remove the said minor 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.

(e) That the proposed adopters be allowed to change the name of the said minor 'ANSH' to "Ansh Jacob Yeager".

36. In addition to the above, this Court also directs the AFAA to report along with supporting documents/current medical reports, the status, growth and well being of the child Ansh to the Indian Embassy in Washington DC, every six months to be forwarded to the Petitioner Trust as well as ICSW and this Court till Ansh attains the age of majority in the USA.

37. The Judge's order is accepted and signed separately.

38. All undertakings contained in the Petition are accepted as undertakings to this Court.

39. The Foreign Adoption Petition accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)

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