

Sharada

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

FOREIGN ADOPTION PETITION NO. 7 OF 2025

WITH

JUDGE'S ORDER NO. 52 OF 2025

IN

FOREIGN ADOPTION PETITION NO. 7 OF 2025

Adharashram, Nashik

..Petitioner

And

Mr. Joseph Mathew Fortier, Canadian
National.

..Proposed
Adopters

Mrs. Amber Rae Fortier, American

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor, Advocate for the
Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 11TH JUNE 2025

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Proposed Adopters are seeking adoption of male minor Adwait (“**the said male**

minor”) born on 30/11/2023. The biological mother surrendered her son before the Child Welfare Committee (CWC), Nashik on 27/12/2023 and the child’s custody was given to the Petitioner institution on the same day as per the order of the said CWC, Nashik dated 27/12/2023 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 Nos. 18-19 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Nashik declared the said male minor “Legally Free for Adoption” as on 04/03/2024. The Free for Adoption Certificate is on record at page No.17 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 2017 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.25 to the Petition.

4. The undertaking / affidavit by the Petitioner institution is on record at page Nos.20-24 to the Petition.

5. The Prospective Adoptive Father is a Canadian National and the Prospective Adoptive Mother is an American National, both residing at Minnesota, USA aged about 41 and 42 years respectively. They have been married for the past 19 years (20/05/2006) with no biological children. However, they have one adopted daughter aged about 3 years (03/05/2022) from West Bengal, India. The Citizenship Certificate, Birth Certificate, Adoption Order, Medical report and progress report of first adopted daughter are on record at page Nos. 42-67 to the Petition

6. The Motivation Letter of the Prospective Adoptive Parents is on record at page Nos. 68-70 to the Petition.

7. The Prospective Adoptive Parents Joint Family Photograph and Copies of Passport are on record at page Nos.26-39 to the Petition.

8. The Medical Report of the Prospective Adoptive Parents dated 29/06/2023 states “They do not suffer from any chronic, contagious or fatal disease and is fit to adopt”. Their HIV and HbsAg Test Reports certify the case as Non-Reactive. These reports are at page Nos. 71-82 to the Petition.

9. The Prospective Adoptive father is working as a Physician Assistant with St. Cloud Orthopedics since August, 2018. His current annual base salary is \$161,289.13. His Employment and Income Certificate is on record at page Nos. 83-84 to the Petition. The Prospective Adoptive mother is currently a Homemaker.

10. The U.S. Individual Income Tax returns for the year 2021, 2022 and 2023 are on record at page Nos. 87-98 to the Petition.

11. The Supportive Financial documents and Residence Certificate are on record at page Nos. 99-106 to the Petition.

12. Childcare Arrangement Letter of the Prospective Adoptive Parents is on record at page No. 108 to the Petition.

13. The Home Study Reports dated 07/05/2024 by the Authorities of “America World Adoption”, Minnesota, USA is on record and the report has found the Prospective Adoptive Parents suitable to adopting a child. The said Home Study Reports are on record at page Nos. 109-127 to the Petition.

14. The Psychological Evaluation Report of the Prospective Adoptive parents dated 08/12/2023 by the authorities of “Therapeutic

Services Agency”, Minnesota, USA is on record and the report states that the Prospective Adoptive Parents are expected to provide a safe, loving and supportive home for an adopted child from India. This report is on record at page Nos. 128-141 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos. 142-143 to the Petition.

16. The Child Security Undertaking dated 11/10/2024 has been given by the Prospective Adoptive Mother’s Parents at Minnesota, USA to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page No. 158 to the petition.

17. The Medical Examination Report of the said male minor dated 16/04/2024 states “Health Status of the child. Overall Observation of the child: Bilateral Profound Sensorineural Hearing Loss will need checkup Audiologist ENT refer. Cochlear Implants Surgery advise”. The child is Special Need, so refer the case to the CMO. The Prospective Adoptive Parents have countersigned this Report which is on record at page Nos. 164-170 to the Petition.

18. The Medical Examination Report dated 29/09/2024 at Part E-

Special Needs condition of child by the Medical Office, Civil Hospital, Nashik is on record at page Nos. 171-180 to the Petition. It states that “This may be a temporary special needs categorization. It shall require close follow up and evaluation of the special needs status periodically. Some of these may become typically developing or normal children”. The Prospective Adoptive Parents have countersigned this report.

19. The Undertaking by the Prospective Adoptive Parents regarding Medical Needs of the child is on record at page No. 182 to the Petition.

20. The H.I.V. Report of the said male minor dated 21/03/2025 certifies the case as Non Reactive. This report is on record at page No. 185 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No. 186 to the Petition.

21. The Declaration of willingness and undertaking of the Prospective Adoptive Parents states that they are willing to adopt the said male 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 on record at page Nos. 187-194 to the Petition.

22. The Name Change Request Letter of the Prospective Adoptive Parents is on record at page No. 184 and it states they desire that the male minor 'Adwait' be renamed as "Rohan Judah Fortier".

23. The undertaking dated 23/12/2024 of the Authorized Foreign Adoption Agency (AFAA) "America World Adoption", Minnesota, USA to provide follow-up reports of the child along with his recent photograph as stated in the Court Order and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos. 196-199 to the Petition.

24. The Special Power of Attorney dated 08/01/2025 duly executed by the Proposed Adopters in favour of the Petitioner institution is on record at page Nos. 200-201 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 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 Regulation 2022.

26. Mr. O. Hareendran, Scrutiny Officer has tendered

Report / Representation from the Indian Council of Social Welfare (ICSW) dated 08/06/2025 which is taken on record and marked 'X' for identification.

27. 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.

28. 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.”

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 male minor Rohan Judah Fortier, born on 30/11/2023 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 minor Rohan Judah Fortier and having all parental rights, privileges and responsibilities over the said minor now in the care and custody of the Petitioner institution Adharashram, 491/6 Gharpure Ghat, Nashik-422 002, Maharashtra.

(c) That the proposed adopters be allowed to change the name of the said minor ‘Adwait’ to “Rohan Judah Fortier”.

(d) Leave/permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Rohan Judah Fortier, born 30/11/2023 and stating thereon that the Proposed Adopters as Parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said minor Rohan Judah Fortier 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 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.

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

33. The present Foreign Adoption Petition is accordingly disposed of.

34. There shall be no order as to costs.

[R.I. CHAGLA, J.]

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