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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

JUDGES ORDER NO. 14 OF 2026

IN

FOREIGN ADOPTION PETITION NO. 5 OF 2026

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

Through: **Sunil Kumar Arora**,
Executive Director.

...

Petitioner

AND

1. **Sergio Lacalle Marquina**,
Spanish National,
aged 44 years, Residing at Agata No. 3, URB, Las,
Pedrizas, 43370 Chiva, Valencia,
SPAIN.

2. **Aurora Estiguin Garcia**,
Spanish National,
aged 44 years, wife of
Mr. Sergio Lacalle Marquina,
residing at Agata No. 3, URB, Las,
Pedrizas, 43370 Chiva, Valencia,
SPAIN.

... Prospective Adoptive Parents

Mr. Rakesh K.L Kapoor for Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : FARHAN P. DUBASH, J.

DATE : 29th JANUARY 2026

ORDER:

1. By this Foreign Adoption Petition, the Petitioner and the Prospective Adoptive Parents (**PAPs**) have sought the adoption of the male minor, Gandhar, (**the said male minor**) born on 28th April 2024. The said male minor was found abandoned near the Nagpada Police Station, Mumbai, on 24th May 2023 and was admitted to the Petitioner institution, Bal Asha Trust, Mumbai, on the same day for care and protection. The Child Welfare Committee (**CWC**), Mumbai City- II recognised that admission vide its order dated 25th May 2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (**JJ Act**). The Admission Order of the CWC is on record.

2. The CWC, Mumbai City- II, declared the said male minor “Legally Free for Adoption” by an order dated 27th December 2023 after making the due inquiry under Section 38 of the JJ Act. The required Undertakings and

Affidavits by the Petitioner institution are on record. The No Objection Certificate from the Central Adoption Resource Authority (**CARA**) dated 31st October 2025 as per Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter- Country Adoption 1993 (**Hague Convention**) is also on record.

3. The PAPs are Spanish Nationals, residing at Valencia, Spain, both aged about 44 years, who have been married for the past 12 years with no biological children. Their marriage certificate, birth certificates and copies of their passports are on record.

4. The Prospective Adoptive Father is working as a Packaging Operator with a Company 'Berioska, S.L' since 23rd September 2025 and his annual gross taxable income is Euro 23,104. The Prospective Adoptive Mother is working as a Nursing Assistant with Vithas Hospital 9 De Octubre since 6th August 2024 and her monthly gross salary is Euro 1,898. Their Employment and Income Certificates, along with Financial Declarations and proof of residence are all on record.

5. The Medical Report dated 25th March 2025 of the PAPs is on record, and it states that they presently do not suffer from any known physical, psychological or contagious illness which prevents them from leading a normal

life or looking after the said male minor. Their HIV and HBsAg Test reports certify both of their cases as Negative. These reports are on record.

6. The Childcare Plan Letter of the PAPs is also on record.

7. The Home Study Report of the authorities of the Valencian Government Department of Social Services, Spain dated 11th March 2025 is on record and has found the PAPs suitable to adopt a child as young as possible and up to 4 years and 11 months of age, from the Republic of India.

8. The Report of Psychological Evaluation which is on record dated 11th March 2025 by the Valencian Government Department of Social Services, Spain, has found the PAPs suitable for adopting a child.

9. There is also on record the permission of the receiving country, Spain, as per Articles 5 and 17 of the Hague Convention.

10. In addition, the Child Security Undertaking dated 27th November 2025 given by the Prospective Adoptive Father's brother and sister-in-law residing in Valencia, Spain, to look after the said male minor in case of any mishap to the PAPs is also on record.

11. The other documents are in order, including the letter of acceptance, the declarations of willingness and undertakings. A copy of the General Power of Attorney in favour of the Petitioner is also on record.

12. The Medical Examination Reports of the said male minor, dated 14th November 2025 and 19th November 2025, are on record, and state that *“Health Status of the child is that of Special Need. Overall Observation of the child: He was born to a HIV seropositive mother with tuberculosis. He was a Low-Birth Weight baby (B wt. 2.05kg) born at 38 weeks with uneventful post-natal period. He is having isolated language and speech delay and will require speech therapy and regular follow-up. He is currently under treatment for intestinal giardiasis. He has grown well in the institution and is developmentally normal. He has not suffered from any serious infections needing hospitalization.”* It is important to note that the PAPs have countersigned these Reports.

13. Moreover, the Report of Language, Speech and Hearing of December 2024 of the said male minor is on record and it states that he is having delay in acquiring speech and language milestones. He requires continuous speech and language stimulations for achieving milestones in the limitations of environmental inadequate stimulation to language development

and conducive environment to reach his full potential. The PAPs have countersigned this report.

14. The HIV report of the said male minor, dated 9th November 2024, certifies his case as Non-Reactive.

15. As regards the said male minor's name, the PAPs do not desire to change it, and wish to retain his Indian name 'Gandhar'.

16. The PAPs undertaking to allow personal visits by representatives of the Authorised Foreign Adoption Agency (**AFAA**) during post adoption follow ups, as per the CARA Guidelines is on record.

17. The undertaking dated 27th March 2025 of the AFAA "NAMASTE-Asociacion para la Promocion de la Infancia", Spain, to provide follow-up reports of the child and make alternative arrangements in case of disruption of the adoptive family is on record.

18. The Petitioner institution's recognition from the Women & Child Development Department, Government of Maharashtra to place children in adoption is valid for a period up to 31st March 2026. The copy of Extension order dated 5th December 2025 of the Women & Child Development Department, Government of Maharashtra is on record.

19. All requirements are satisfied as per Section 59 of the JJ Act, the Regulations listed in Chapter IV and Regulation 58 of the Adoption Regulations, 2022.

20. Mr O. Hareendaran, Scrutiny Officer, has tendered a Report/Representation of the Indian Council of Social Welfare dated 16th January 2026, which is taken on record and has been marked 'X' for identification.

21. It is relevant to note here that in the case of **Nisha Pradeep Pandya and Anr v. Union of India**,¹ concerning a 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 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;

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.

¹ 2023 SCC OnLine Bom 90

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.

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

23. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, I am of the view that it would be in the interest of the said male minor that he is adopted by the PAPs.

24. In these circumstances, the Petition is allowed in terms of the prayer clauses (a) to (d) of the Petition, which read thus:

- (a) For the Adoption of the proposed minor Gandhar born on 28/04/2023 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 said minor Gandhar and having all parental rights, privileges and responsibilities over the said minor now in the care and custody Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai - 400 011.*

- (c) *Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said male minor Gandhar born on 28/04/2023 and showing the proposed adopters as Parents.*
- (d) *That the Proposed Adopters may be granted leave to remove he said minor Gandhar from the jurisdiction of this Hon'ble Court and to take the said minor to SPAIN or wherever they may reside in future.*

25. It is directed that the Petitioner will obtain further undertakings from the PAPs that they will not give the said male minor 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.

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

(FARHAN P DUBASH, J.)