

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

Wednesday, the 1st day of November 2023 / 10th Karthika, 1945
WP(C) NO. 35506 OF 2023(K)

PETITIONERS:

1. SHWETA JANARDHAN BARVE, AGED 40 YEARS, W/O. SHANTANU PRABHAKAR GAWANDE, RESIDING AT HOUSE NO 285/6, SIVABHAVANAM, NAMBARUVIKALA, ALUMKADAV KARUNAGAPALLY, KOLLAM., PIN - 690573

AND ANOTHER

RESPONDENTS:

1. STATE OF KERALA, REP. BY ITS CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

AND 5 OTHERS

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an order to direct the Respondent 5 to consider Exhibit P8 representation and hand over the medical indication certificate to petitioners to produce before the 3rd respondent on 28/10/2023, provisionally, pending disposal of the above writ petition in the interest of justice and for the ends of justice.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 30-10-2023 and upon hearing the arguments of M/S. MAHESH V. RAMAKRISHNAN, DEEPA SREENIVASAN, Advocates for the petitioners, the court passed the following:

P.T.O

DEVAN RAMACHANDRAN, J.

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W.P. (C) No.35506 of 2023

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Dated this the 1st day of November, 2023

ORDER

The petitioners, the surrogate mother and her sister-in-law are stated to be present in person before this Court.

2. I record that the surrogate mother and her sister-in-law are not in open Court, but have been allowed to remain in another one, which is not in use today, so as to protect their privacy.

3. Smt. Deepa Sreenivasan learned counsel for the petitioner, vehemently argued that the would-be-surrogate mother is acting altruistically; however; Sri. Sunil Kumar Kuriakose – learned Government Pleader, submitted that the report of the Police speak to the contrary, but conceded that the views of the surrogate mother had not been taken. He, however, pointed out that there are several inconsistencies and violations of the law committed by the petitioners; and therefore, that this matter will require to be very seriously considered by this Court.

4. Initially, this Court had an intention to interact with the surrogate mother and her sister-in-law; but I deem it appropriate not to do so at this time because, I am certain that

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the Police must interact with her and file a report regarding the angle of altruism.

5. As per the scheme of the Statute, any permission for surrogacy can be granted only if altruism and lack of financial involvement are reasonably established. This cannot be done by this Court even if I am to interact with the person involved.

6. I, therefore, asked Smt.Deepa Sreenivasan – learned counsel for the petitioner, if she would stand in the way of this Court ordering a further enquiry by the concerned Police Authorities, particularly qua the aspect of altruism. She answered that her clients would not stand in the way.

7. I, therefore, direct the DIG, Thiruvananthapuram, to cause an appropriate enquiry into the request of the petitioners, through a competent woman officer in civil dress, assisted by such other officers as may be necessary, who shall interact with the surrogate mother and her family; and file a report before this Court whether she is acting in altruism or for any other interests. This shall be done within a period of one week.

List for further consideration on 08.11.2023.

H/o.

Sd/- DEVAN RAMACHANDRAN,
JUDGE

stu

Exhibit P8

APPENDIX OF WP(C) 35506/2023

**THE TRUE COPY OF THE REPRESENTATION MADE BEFORE THE 5TH
RESPONDENT ON 19.10.2023.**

