



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 30530 OF 2024 (GM-RES)

BETWEEN:

1. SMT.INDIRAMMA A.R.,
W/O K. REVAPPA,
AGED ABOUT 55 YEARS,
2. SRI. K. REVAPPA,
S/O SIDDALINGAPPA K,
AGED ABOUT 59 YEARS,

BOTH R/AT NO.1495/113,
BASAVA SADANA,
SARASWATHI NAGARA, A BLOCK,
PANCHAMUKHI PARK ROAD,
DAVANAGERE – 577 004.

...PETITIONERS

(BY SRI. GAUTAM S BHARADWAJ., ADVOCATE)

AND:

1. UNION OF INDIA,
THROUGH MINISTRY OF HEALTH AND
FAMILY WELFARE,
THROUGH ITS SECRETARY,
NIRMAN BHAWAN,
NEW DELHI – 110 011.
2. THE KARNATAKA STATE ASSISTED
REPRODUCTIVE TECHNOLOGY AND
SURROGACY BOARD,
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA,





BENGALURU – 560 001.
REPRESENTED BY ITS SECRETARY.

3. GOVERNMENT OF KARNATAKA,
DISTRICT MEDICAL BOARD SURROGACY
(REGULATION) ACT, 2021,
OFFICE AT THE K C GENERAL HOSPITAL,
BENGALURU – 560 003.
REPRESENTED BY ITS
AUTHORIZED OFFICER.

...RESPONDENTS

(BY SRI. SADHANA S DESAI., ADVOCATE FOR R1;
SRI.SHAMANTH NAIK, AGA FOR R2 AND R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH SECTION 4(III)(C)(I)
OF THE SURROGACY (REGULATION) ACT 2021 IS
UNCONSTITUTIONAL, BEING VIOLATIVE OF ARTICLES 14 AND 21
OF THE CONSTITUTION OF INDIA AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

The petitioners, who are childless and have lost their two
sons to a road traffic accident and Hypoxia respectively, seek
a surrogacy certificate for medical indications, as well as
eligibility and essentiality certificates, upon fulfilling the
conditions laid down under the Surrogacy (Regulation) Act,
2021 (hereinafter referred to as 'the Act').

2. The petitioners, as intending parents, are beyond
the age limit prescribed under Section 4(iii)(C)(I) of the Act,



2021, and therefore seek permission for Petitioner Nos. 1 and 2 to undergo surrogacy treatment using donor eggs.

3. In similar circumstances, a coordinate Bench of this Court in the case of H Siddaraju and Another v. Union of India through its Secretary and Others (2023 SCC OnLine Kar 16) ruled that the petitioners' case for issuance of an eligibility certificate may be considered by the State Surrogacy Board/Appropriate Authority/Prescribed Authority, subject to the petitioners satisfying the triple test as enumerated in paragraph 25 of the judgment.

4. Therefore, it is expedient to dispose of the petition in terms of the order passed by the coordinate Bench of this Court in the aforementioned case. Accordingly, I pass the following:

ORDER

The petition is disposed of with a direction to the petitioners to approach the State Surrogacy Board/Appropriate Authority/Prescribed Authority with the appropriate application seeking redressal of their grievance. In the event that the petitioners approach the Board/Appropriate Authority within four weeks from the date of receipt of the certified copy of this order, the State Surrogacy Board/Appropriate Authority/Prescribed Authority shall consider the application



and pass appropriate orders for the issuance of the eligibility certificate within four weeks thereafter. While doing so, the Board/Authority shall bear in mind the observations made by this Court in WP No. 5861/2023 (DD 21.04.2023).

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE

RKA
List No.: 1 Sl No.: 41