



W.P.No.12249 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.12249 of 2023

1. T.Snegapriya
 2. Tamilmani
- ...Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai.
 2. The Director,
The Directorate of Medical and Rural Health Service,
No.359, DMS Complex,
361, Anna Salai, Chennai-600 006.
 3. The Joint Director of Health Service/District Medical Board,
No.359, DMS Complex,
361, Anna Salai, Chennai-600 006.
- ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd & 3rd respondents to issue eligibility certificate for the petitioner being the intending couples to undergo the surrogacy procedure with the 3rd & 4th respondent constituted under Assisted Reproductive Technology (Regulation) Act, 2021 and Surrogacy (Regulation) Act, 2021 on the basis of the petitioner's



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representation dated 24.03.2023.

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For Petitioner : Ms.Reshmi Christy

For Respondents : Mr.U.Bharanidharan, AGP

ORDER

The petitioners have filed this Writ petition seeking direction to the 2nd & 3rd respondents to consider the 1st petitioner's representation dated 24.03.2023 and consequently, issue eligibility certificate to the petitioners.

2. Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the respondents. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioners is that the petitioners herein are husband and wife and they got married on 01.06.2014. Despite trying all effective methodology for pregnancy, as the 1st petitioner was unable to conceive, the petitioners approached Fertility Hospital Chennai for treatment and decided to go for donor oocyte and surrogate. Therefore, the 1st petitioner



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sent a representation dated 24.03.2023 to the 2nd & 3rd respondents, seeking eligibility certificate, as the petitioners cannot have a child through Surrogacy without obtaining necessary permission from the respondent hospital. However, the respondents have not considered the said representation and till date, no orders have been passed on the same, despite the fact that the petitioners have complied with all the conditions stipulated under Section 4 of Surrogacy (Regulation) Act, 2021. Hence, this Writ petition.

4. Though very many grounds have been raised, learned counsel for the petitioners submitted that, it would suffice, if this Court issues direction to the 2nd and 3rd respondents to consider the 1st petitioner's representation dated 24.03.2023 and to consequently issue necessary eligibility certificate to the petitioners, as expeditiously as possible.

5. Learned Additional Government Pleader appearing for the respondents submitted that, the 1st petitioner's representation dated 24.03.2023 will be forwarded to the concerned board within the time stipulated by this Court.



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6. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, directs the 2nd and 3rd respondents to forward the 1st petitioner's representation dated 24.03.2023 to the concerned board as per the Surrogacy (Regulation) Act, 2021, within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of the said representation, the said Board shall consider the same on merits and in accordance with law and pass appropriate orders, within a period of four weeks thereafter, after affording an opportunity of personal hearing to the petitioners.

7. Accordingly, this Writ petition stands disposed of. No costs.

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NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No



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To
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in

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M.DHANDAPANI, J.

Ordered, on payment of single
Court fee.

21.04.2023
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