



W.P.No.26894 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

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**MR.JUSTICE N.SESHASAYEE**

W.P.No.26894 of 2023  
and W.M.P.No.26310 of 2023

1.V.Prabha

2.Dr.Vinay Kumar

... 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 - 600006.

3.The Joint Director of Health Service/District Medical Board,  
Chengalpattu District

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd and 3rd respondents to issue eligibility certificate for the petitioners being the intending couples to undergo the surrogacy procedure with the 2nd and 3rd respondent constituted under



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Assisted Reproductive Technology (Regulation) Act, 2021 and Surrogacy (Regulation) Act, 2021 on the basis of the petitioners' application dated 16.05.2023.

For Petitioner : Ms.Reshmi Christy

For Respondents 1 to 3 : Mr.M.Bindran  
Additional Government Pleader

### **ORDER**

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioners herein are spouses, and they could not have a biological child in the ordinary course of their life. Their case is that after exhausting all possible avenues to have their child, they have resigned to the fact that they are left without an option, but to opt for surrogacy.

3. Having opted for surrogacy to have a surrogate child by utilising the donor egg to the proposed surrogate mother and the sperm of the second petitioner (the husband of the first petitioner), an application was made to the Board constituted under the Surrogacy (Regulation) Act, 2021, which according to the petitioners,



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was made in the format provided for the said purpose in the Surrogacy (Regulation) Rules, 2022.

4.Mr.M.Bindran, the learned Additional Government Pleader takes notice for the respondents, and makes a statement that the Board has been constituted recently, and the Board sits every week to take up each of such applications pending for consideration, without default. The said statement of the learned Additional Government Pleader is recorded.

5. Heard both sides. This Court now requires the respondents 2 and 3 to ensure that the application dated 16.05.2023 filed by the petitioners is placed before the Board promptly, and the whole exercise is directed to be completed within a period of six weeks from today.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

19.09.2023

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Note: Issue order copy on 19.09.2023

N.SESHASAYEE, J.



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WEB COPY

To

1.Principal Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Chennai.

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