



\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5880/2024**

NEEL BATTA & ANR.

.....Petitioners

Through: **Ms. Pooja Aggarwal, Advocate.**

versus

THE DISTRICT MEDICAL BOARD & ANR.Respondents

Through: **Mr. Karn Bhardwaj, ASC, GNCTD
with Mr. Shubham Singh, Mr. Rajat
Gaba and Mr. Saurabh Dahiya,
Advocates for R-1, 2.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
27.08.2024

%

1. The Petitioners are a wedded couple who were trying to conceive a child through natural means, however unfortunately, Petitioner No. 2 was unable to get pregnant. Under such circumstances, the Petitioners explored the possibility of achieving fertility through In-Vitro Fertilization¹ treatment. Unfortunately, the IVF treatment also failed twice. Thereafter, doctors advised Petitioner No. 2 to undergo several medical tests and she was diagnosed with multiple health conditions such as Glomerulosclerosis, Prediabetes, Hypertension and Hypoplastic Uterus along with concerns arising from her genetic disorder of Mosaicism and Turner Syndrome, which are said to be serious genetic defects which are likely to be passed on to the

¹ "IVF"



(unborn) child. In light of the above and considering the previous failed attempts of pregnancy through IVF treatment, the Petitioners were advised to take the help of gestational surrogacy by the consulting doctors.

2. Accordingly, in line with the prescribed statutory process, the Petitioners applied for a Certificate of Medical Indication for Gestational Surrogacy from Respondent No. 1 – the District Medical Board. However, on 21st September, 2023, the said request was rejected by Respondent No. 1.

3. In the above background, the instant petition was filed seeking the following reliefs:

“I. Issue a necessary Writ, Order or directions thereby, praying inter alia to quash the impugned certificate for rejection of medical indication dated 21.09.2023, in light of the notification dated 21.02.2024 passed by the Ministry of Health & Family Welfare, allowing the use of donor gametes, and in compliance to the directions issued by the Hon’ble Supreme Court of India on dated 05.02.2024 in the matter of Arun Muthuvel V. Union of India and thereby praying to remand back the application for issuance of certificate of medical indication under section 4(iii)(a)(i) of the surrogacy (regulation) act 2021 for reconsideration to the Respondent no 1 and Respondent no. 2, as per the provisions of the Surrogacy (Regulation) Act, 2021 read with the Surrogacy (Regulation) Rules 2022 in the interest of justice.

II. Issue a necessary Writ, Order or directions thereby, praying inter alia to direct the Respondent No. 1 and Respondent No. 2 to adopt the proposed remedies mentioned in the table under para No. 56 or as the Hon'ble Court may deems fit and proper to establish free and fair medical board proceedings as prescribed under the Surrogacy Regulation Act 2021 and Rules, for the welfare of the Patients/Petitioners/ Applicants in the interest of justice.

III. Pass any other/further order(s) as the Hon'ble Court deems fit and proper in the facts and circumstances of the case in favour of the Petitioners and in the interest of justice.”

4. During the pendency of the present proceedings, the first prayer stands redressed since the Certificate of Medical Indication stands granted to Petitioners No. 1 and 2, a fact duly acknowledged by counsel for the



Petitioners.

5. In light of the above, in the opinion of the Court, since the primary grievance of the Petitioners stands redressed, there is no reason to continue with the present proceedings.

6. However, the Petitioners' counsel asserts the relief sought in the second prayer, seeking appropriate directions to Respondents No. 1 and 2 to establish and ensure free and fair medical board proceedings under the Surrogacy Regulation Act, 2021 and the corresponding rules, for the welfare of persons seeking to apply for surrogacy and in the interest of justice. In this regard, the Petitioner has made some suggestions in Paragraph No. 56 of the writ petition for streamlining the said medical board proceedings.

7. The counsel for the Respondents, states that the procedure established under the Surrogacy rules, regulations and the Act is robust enough and takes care of the Petitioner's concerns.

8. Nonetheless, considering that the Petitioner is only attempting to suggest measures to streamline the process of applications for surrogacy and their adjudication by the Medical Board, without going into the merits of the suggestions, it is directed that the Respondents may examine the suggestions made by the Petitioners in Paragraph 56 of the writ petition as well as the suggestions made in C.M. APPL. 24275/2024. In case any of such suggestions can help in streamlining the process, the Respondents may adopt the same in accordance with law.

9. With the above directions, the present writ petition is disposed of.

CM APPL. 24276/2024 (seeking necessary directions, to allow the Petitioners to appear through the virtual video conferencing mode before the R-1 and R-2)



10. Through this application, the Petitioners were requesting for appearing through video conferencing mode in the meeting for reconsideration of their application dated 27th June, 2023. Since the said application of the Petitioner already stands allowed and the required certificate has already been issued to them, no further directions are required to be passed in the application.

11. Disposed of.

SANJEEV NARULA, J

AUGUST 27, 2024

nk