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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13701/2024 & CM APPL. 57359/2024**
MRS SB & ANR.Petitioners

Through: Ms. Nandita Rao, Ms. Neelam
Goswami, Mr. Manoj Kumar
Makhija, Mr. Jai Shankar, Mr.
Mayank and Mr. Ashish Kumar,
Advocates.

versus

THE UNION OF INDIA & ORS.Respondents
Through: Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Panwar, G.P. and Mr.
Aakash Pathak, Advocate for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
30.09.2024

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1. The Petitioners in paragraph no. 3 of the instant petition prays as follows:

“3 That petitioners seeks declaration that section 4 (iii)(c)(I) of the SR Act, which imposes an age restriction in respect of intending parents, impinges on their reproductive autonomy, protected by Article 21 of the Constitution of India, 1950.”

2. However, in the prayer clause, the Petitioners seek the following prayer:

“a. Issue the Writ under Article 226, Constitution of India seeking directions, orders or writs or any of them for the enforcement of the Fundamental Right to parenthood, Privacy, Personal Autonomy, Dignity & Reproductive Choice which are inseparable part of Right to Life under Article 21 of the Constitution of India



and direct the respondent that an eligibility certificate be issued to the Petitioners.”

3. Counsel for the Petitioners acknowledges that for maintaining the prayer sought in the present petition, they would have to challenge the vires of the relevant provisions. She in fact states that the intent is to seek a declaration as mentioned in paragraph no. 3 of the petition.
4. If a challenge is made to the provisions of an Act, the matter is to be listed before an appropriate bench.
5. Accordingly, the Petitioners’ counsel seeks permission to withdraw the present petition with a liberty to file a fresh one urging the same cause of action seeking appropriate relief.
6. The present petition is dismissed as withdrawn with the liberty as aforesaid.
7. The Court has not commented on the maintainability of such a petition intended to be filed by the Petitioners.
8. All rights and contentions of the parties are left open.
9. Disposed of along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 30, 2024

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