

ML. 241
16.05.2025
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 7290 of 2025

**Banashri Karmakar & Anr.
-versus
State of West Bengal & Ors.**

**Mr. Achin Jana.
Mr. Prosenjit ghosh.
Ms. Jayshri Dhar.
Ms. Chetna Rustagi.
...For the Petitioner.**

**Mr. Biswabrata Basu Mallick. Ld. AGP
Ms. Parna Roy Chowdhury.
... for the State.**

**Mr. Sagar Das.
... for the respondent no. 4.**

1. Affidavit-of-service filed today in Court be kept with the records.

2. The petitioners, as commissioning couple, approached the clinic of the respondent no. 4 to avail benefit under the Assisted Reproductive Technology (Regulation) Act, 2021. As the petitioner no. 2/husband has crossed the statutory age limit of 55 years, the clinic has refused to allow the said benefit in favour of the couple.

3. The petitioners rely on the judgment dated 22nd November, 2024 passed by the Court in **WPA 23776 of 2024 (Shyamoli Saha & Anr -Vs. The State of West Bengal & Ors.)** wherein the Court permitted the couple to avail the benefit as the wife was within the prescribed age limit.

4. It appears that in the instant case also the wife is within the prescribed age limit. The husband has just crossed 60 years.

5. Upon hearing the submission made on behalf of the petitioners and the State respondents the Court is of the opinion that the decision delivered in the matter of Shyamoli Saha & Anr. (Supra) may be applied in the facts and circumstances of the instant case.

6. The respondent no. 4 clinic is directed to permit the commissioning couple to avail the said benefit in the same line as directed in the judgment of Shyamoli Saha & Anr (Supra).

7. The writ petition stands disposed of.

8. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)