

S/L 13
13.02.2026
Court. No. 25
suvayan

WPA 1718 of 2026

Rakhee Paul & Anr.
Vs.
The State of West Bengal & Ors.

Ms. Sadia Parveen

...for the petitioners.

Mr. Tanmoy Kumar Ghosh
Mr. Sanjib Das

...for the State.

1. The petitioners have filed the present writ application praying for permission to avail service of Assisted Reproductive Technology through IVF procedure upon obtaining sperm and ovum from concerned bank in terms of the provisions of the Assisted Reproductive (Regulation) Act, 2021.
2. The petitioners are the married couple. The petitioner no. 1 being the wife is aged about 49 years and the petitioner no. 2 being the husband is aged about 55 years. After the marriage of 24 years the petitioners could not get any issue and accordingly they have decided to go for the Assisted Reproductive Technology through IVF procedure and have contacted the clinic viz. Sparsha Infertility Centre in the month of December, 2025. After examination of the petitioners and on receipt of the report the authorities have informed the petitioners that it is not possible for the clinic to go for the Assisted Reproductive Technology as the petitioner no. 2 being the husband is over age in terms of Section 21(g) of the Assisted Reproductive Technology

(Regulation) Act, 2021. Accordingly, the petitioners have filed the present writ application.

3. The petitioners have relied upon the unreported judgment passed by the co-ordinate Bench of this Court in *WPA 23776 of 2024* dated 22.11.2024 and submits that in the similar circumstances of the case the co-ordinate Bench of this Court has allowed the parties to avail the facilities of Assisted Reproductive Technology Service (hereinafter referred to as 'ARTS' in short).
4. Learned counsel for the respondents submits that though the wife is aged about 49 years but the husband is aged about 55 years and as such if this Court passed an order the petitioners can be allowed to go for the Assisted Reproductive Technology process.
5. Heard the learned counsel for the respective parties perused the materials on record.
6. This Court finds that the petitioners are the married couple even after 24 years of marriage they are the issueless and they have approached the clinic to adopt the ARTS procedure but due to over age of the petitioner no. 2 the clinic has refused to avail the ARTS procedure.
7. This Court finds that by an order dated 22.11.2024 this Court has categorically held that Section 21(g) the age of the woman is prescribed shall be above the age of 21 years and below the age of 50 years and for the man above the age of 21 years and below the age of 55 years. This Court finds that the similar matter was considered by this Court and held that if one of the couple is having the age in terms of Section 21(g) of the Assisted

Reproductive Technology (Regulation) Act, 2021, the couple can avail the benefit of the Assisted Reproductive Technology (Regulation) Act.

8. In the present case, the wife is aged about 49 years which is below the age of 55 years and as such the case of the petitioners is duly covered in the judgment passed by the co-ordinate Bench of this Court in WPA 23776 of 2024.
9. In view of the above, this Court is of the considered view that the petitioners will be eligible to avail the facility of ARTS and the respondent no. 4 is directed to provide such facilities to the petitioners if the petitioners approach the authority.
10. WPA 1718 of 2026 is disposed of.
11. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)