

ITEM NO.21

COURT NO.15

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Writ Petition(s)(Civil) No(s). 960/2021

HAMSAANANDINI NANDURI

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No. 46892/2023 - ADDITION / DELETION / MODIFICATION PARTIES)

Date : 12-11-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Ms. Bani Dikshit, Adv.  
Mr. Uddhav Khanna, Adv.  
Mr. Kishan Kumar, Adv.  
Mr. Dhruva Vij, Adv.  
Mr. Mukesh Kumar Singh, Adv.  
Mr. Cm Diwedi, Adv.  
Mr. Subodh, Adv.  
M/S. Mukesh Kumar Singh And Co., AOR

For Respondent(s) Mr. Amrish Kumar, AOR

**UPON hearing the counsel the Court made the following**  
**O R D E R**

- 1 The petitioner has invoked the jurisdiction of this Court under Article 32 of the Constitution seeking to challenge the constitutional validity of Section 5(4) of the Maternity Benefit Act, 1961 which came to be inserted vide the Maternity Benefit (Amendment) Act, 2017 (for short, the "Amendment Act").
- 2 Section 5(4) of Amendment Act entitles only those mothers who are adopting a child below the age of three months to seek benefit of maternity leave for a

period of 12 weeks.

- 3 The case put up by the petitioner in public interest, *prima facie*, is that the provision in question is a social welfare legislation and there is no reasonable classification when it restricts the age of the infant up to three months. In other words, if a woman adopts a child above the age of three months, she will not be entitled to any such maternity leave benefit as provided under the Amendment Act.
- 4 The Union of India has filed its reply justifying the prescription of the age of three months. However, in the course of today's hearing, many issues have cropped up which requires consideration.
- 5 In such circumstances, we expect the Union of India to file a further reply on the issue discussed today, more particularly, as to what is the rationale in saying that it is only that woman who adopts a child below the age of three months would be entitled to seek maternity leave benefits otherwise not. Let such further reply be filed within a period of three weeks from today.
- 6 A copy of the same shall be served to the learned counsel for the petitioner well in advance. Rejoinder, if any, shall be filed within one week thereafter.
- 7 Post the matter for final disposal on 17 December 2024.

**(GULSHAN KUMAR ARORA)**  
**AR-CUM-PS**

**(POOJA SHARMA)**  
**COURT MASTER**