

ITEM NO.27

COURT NO.9

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 (Civil) No.756/2022

ARUN MUTHUVEL

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 50195/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 181650/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 19266/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 181569/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 179193/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 4734/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 78519/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 179058/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 205942/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 197034/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 30306/2024 - CLARIFICATION/DIRECTION
IA No. 26763/2024 - CLARIFICATION/DIRECTION
IA No. 50391/2023 - CLARIFICATION/DIRECTION
IA No. 235190/2023 - INTERVENTION APPLICATION
IA No. 150600/2022 - INTERVENTION/IMPLEADMENT
IA No. 196980/2022 - INTERVENTION/IMPLEADMENT
IA No. 181719/2022 - INTERVENTION/IMPLEADMENT
IA No. 50188/2023 - INTERVENTION/IMPLEADMENT
IA No. 26533/2024 - INTERVENTION/IMPLEADMENT
IA No. 19264/2023 - INTERVENTION/IMPLEADMENT
IA No. 78516/2023 - INTERVENTION/IMPLEADMENT
IA No. 173949/2022 - INTERVENTION/IMPLEADMENT
IA No. 205941/2022 - INTERVENTION/IMPLEADMENT
IA No. 169226/2022 - INTERVENTION/IMPLEADMENT
IA No. 50390/2023 - INTERVENTION/IMPLEADMENT
IA No. 31514/2024 - INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) No. 931/2022 (X)

(FOR EXEMPTION FROM FILING O.T. ON IA 157886/2022
IA No. 157886/2022 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 1129/2022 (X)

(FOR GRANT OF INTERIM RELIEF ON IA 4519/2023
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
4523/2023

IA No. 4519/2023 - GRANT OF INTERIM RELIEF

IA No. 4523/2023 - PERMISSION TO FILE ADDITIONAL

DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 42/2023 (X)

(FOR APPLICATION FOR FILING THE PETITION WITHOUT DISCLOSING THE IDENTITY OF THE PETITIONER/RESPONDENT ON IA 8968/2023
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 14205/2023
IA No. 8968/2023 - APPLICATION FOR FILING THE PETITION WITHOUT DISCLOSING THE IDENTITY OF THE PETITIONER/RESPONDENT
IA No. 14205/2023 - APPROPRIATE ORDERS/DIRECTIONS)

W.P.(C) No. 164/2023 (X)

(FOR DELETING THE NAME OF PETITIONER/RESPONDENT ON IA 6951/2024
IA No. 6951/2024 - DELETING THE NAME OF PETITIONER/RESPONDENT)

W.P.(C) No. 522/2023 (X)

(FOR GRANT OF INTERIM RELIEF ON IA 102555/2023
IA No. 102555/2023 - GRANT OF INTERIM RELIEF)

W.P.(C) No. 487/2023 (X)

(FOR GRANT OF INTERIM RELIEF ON IA 90140/2023
FOR impleading party ON IA 265857/2023
FOR INTERVENTION/IMPLEADMENT ON IA 265857/2023
FOR impleading party ON IA 22690/2024
FOR INTERVENTION/IMPLEADMENT ON IA 22690/2024
FOR impleading party ON IA 23072/2024
FOR INTERVENTION/IMPLEADMENT ON IA 23072/2024
FOR impleading party ON IA 46807/2024
FOR INTERVENTION/IMPLEADMENT ON IA 46807/2024
IA No. 90140/2023 - GRANT OF INTERIM RELIEF
IA No. 46807/2024 - INTERVENTION/IMPLEADMENT
IA No. 23072/2024 - INTERVENTION/IMPLEADMENT
IA No. 22690/2024 - INTERVENTION/IMPLEADMENT
IA No. 265857/2023 - INTERVENTION/IMPLEADMENT)

W.P.(C) No. 830/2023 (X)

(IA FOR STAY APPLICATION ON IA 161812/2023
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 207585/2023
FOR impleading party ON IA 28165/2024
FOR INTERVENTION/IMPLEADMENT ON IA 28165/2024
FOR CLARIFICATION/DIRECTION ON IA 28166/2024
IA No. 28166/2024 - CLARIFICATION/DIRECTION
IA No. 28165/2024 - INTERVENTION/IMPLEADMENT
IA No. 207585/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 161812/2023 - STAY APPLICATION)

W.P.(C) No. 1316/2023 (X)

(FOR INTERVENTION APPLICATION ON IA 87321/2024
FOR INTERVENTION APPLICATION ON IA 88195/2024
IA No. 87321/2024 - INTERVENTION APPLICATION)

IA No. 88195/2024 - INTERVENTION APPLICATION)

W.P.(C) No. 67/2024 (X)

W.P.(C) No. 238/2024 (X)

(IA No. 87919/2024 - APPLICATION FOR FILING THE PETITION WITHOUT DISCLOSING THE IDENTITY OF THE PETITIONER/RESPONDENT)

W.P.(C) No. 331/2024 (X)
(FOR ADMISSION)

W.P.(C) No. 380/2024 (PIL-W)
(FOR ADMISSION)

Date : 10-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Nakul Dewan, Sr. Adv.
Ms. Neeha Nagpal, Adv.
Mr. Malak Manish Bhatt, AOR
Ms. Supriya Julka, Adv.

Ms. Bhawana Pandey, Adv.
Mr. B S Rajesh Agrajit, Adv.
Mr. Jaspreet Singh Rai, Adv.
Mrs. Sukhdeep Kaur, Adv.
Ms. Priya Nagar, Adv.
Mr. Shyamal Kumar, AOR

Mr. Mayank Pandey, AOR
Mr. Subramaniam, Adv.
Mr. Ashish Kumar Pandey, Adv.

Mr. Nalin Tripathi, Adv.
Mr. Nishank Tripathi, Adv.
Mr. Nischal Tripathi, Adv.
Ms. Neelam Singh, AOR

Mr. Akshat Srivastava, AOR

M/S. Radium Law, AOR
Ms. Jayna Kothari, Sr. Adv.
Ms. Aparna Mehrotra, Adv.
Mr. Raghav Gupta, Adv.

Ms. Mohini Priya, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Ms. Shivika Mehra, Adv.
Ms. Riddhi Jad, Adv.
Mr. Ketan Paul, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Amrish Kumar, AOR
Mrs. Aishwarya Bhati, A.S.G.
Mr. Rajat Nair, Adv.
Mrs. Chitragada Rashtrawara, Adv.
Mr. Ketan Paul, Adv.
Mr. Krishna Kant Dubey, Adv.
Mr. Mayank Pandey, Adv.
Mr. Arkaj Kumar, Adv.

Ms. Jayna Kothari, Sr. Adv.
Mr. Rohit Sharma, Adv.
Mr. Nikhil Purohit, Adv.
Mr. Jatin Lalwani, Adv.
Ms. Aparna Mehrotra, Adv.
Mr. Raghav Gupta, Adv.
Mr. Kumar Dushyant Singh, AOR

Ms. Fauzia Shakil, AOR

Mr. Ravindra Sadanand Chingale, AOR

Mr. Trideep Pais, Sr. Adv.
Ms. Shreya Munoth, AOR
Mr. Gautam Bhatia, Adv.
Ms. Sitamsini Cherukumalli, Adv.
Ms. Saloni Ambastha, Adv.

Ms. Ameyavikrama Thanvi, AOR

Mr. Ivan, AOR
Mr. Vivek Mathur, Adv.
Mr. Alok Singh, Adv.

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

W.P.(C) No. 164/2023

We have heard learned senior counsel and learned counsel for the petitioner in W.P.(C) No. 164/2023.

During the course of submissions, it was brought to our notice

that petitioner nos.1 and 2; 3 and 4; 5 and 6 are intending couples and petitioner no.7 is also a lady who has undergone hysterectomy and five failed IVF cycles. That owing to certain medical conditions, the intending couples and petitioner no.7 have not been able to conceive a child naturally. In the circumstances, they have opted for surrogacy.

Learned senior counsel during the course of submissions also drew our attention to Rule 14 of Surrogacy (Regulation) Rules, 2022 to contend that they have a right to opt for surrogacy having regard to the provision of Rule 14 (a) to (d) and with particular reference to Clause (d). For ease of reference, Rule 14 of the Rules is extracted as under:

*"14. Medical indications necessitating gestational surrogacy.- A woman may opt for surrogacy if; -
(a) she has no uterus or missing uterus or abnormal uterus (like hypoplastic uterus or intrauterine adhesions or thin endometrium or small uni-cornuate uterus, T-shaped uterus) or if the uterus is surgically removed due to any medical conditions such as gynaecological cancer;
(b) intended parent or woman who has repeatedly failed to conceive after multiple In vitro fertilization or Intracytoplasmic sperm injection attempts. (Recurrent implantation failure);
(c) multiple pregnancy losses resulting from an unexplained medical reason. unexplained graft rejection due to exaggerated immune response;
(d) any illness that makes it impossible for woman to carry a pregnancy to viability or pregnancy that is life threatening."*

In order to ascertain as to whether under the existing Rules, the petitioners/intending couples have a medical condition which would prevent them from having children naturally so as to opt for

surrogacy, we direct that they present themselves before the concerned District Medical Board. Th concerned District Medical Board shall examine the petitioner nos.1, 3, 5 and 7 in light of Rule 14 extracted above and to submit a report to this Court. On perusal of the said reports, their cases shall be considered in accordance with law.

For the purpose of securing the medical report from the concerned District Medical Board, petitioner nos.1, 3, 5 and 7 shall appear before the District Medical Board of Kanchipuram/Chennai (Tamil Nadu), Jalgaon (Maharashtra), Mumbai (Maharashtra) and Ramdurg, Belagavi (Karnataka). The petitioners shall present themselves before the concerned District Medical Board and the report shall be submitted to this Court from the District Medical Board on or before 30.09.2024.

To consider the medical report, list the matters on 01.10.2024.

Written arguments are permitted to be filed by the learned counsel for the petitioners within a period of two weeks from today.

Two weeks' time thereafter is granted to respondents to file their reply to the written arguments.

List the matters on 05.11.2024 for hearing.

(KRITIKA TIWARI)
SENIOR PERSONAL ASSISTANT

(DIVYA BABBAR)
COURT MASTER (NSH)