

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE N.NAGARESH

Friday, the 18th day of March 2022 / 27th Phalguna, 1943
WP(C) NO. 7472 OF 2022(H)

PETITIONERS:

1. DEEPA SREENIVASAN @ DEEPA RASVIND, AGED 44 YEARS, W/O. RASIVINDA KUMAR, MANGALASSERIL, PONNEZHA, THEKKEKKARA P.O, MAVELIKKARA, ALAPPUZHA (DIST.), KERALA STATE PIN CODE 690 107.
2. RASIVINDA KUMAR, S/O. LATE RAMAKRISHNAN K.K, AGED 50 YEARS, MANGALASSERIL, PONNEZHA, THEKKEKKARA P.O, MAVELIKARA, ALAPPUZHA (DIST.) KERALA- STATE , PIN CODE 690 107.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, DEPARTMENT OF HEALTH AND FAMILY WELFARE, SOUTH BLOCK, NEW DELHI 110 001.
2. MINISTRY OF HEALTH AND FAMILY WELFARE, REPRESENTED BY ITS SECRETARY, UNION OF INDIA, NIRMAN BHAWAN, C WING, NEW DELHI 110 001.
3. MEDICAL COUNCIL OF INDIA, REPRESENTED BY ITS DIRECTOR, POCKET 14, SECTOR 8, DWARAKA PHASE-1, NEW DELHI 110 077
4. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY OT GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM, 695 001.
5. THE SECRETARY, DEPARTMENT OF HEALTH AND FAMILY WELFARE, SECRETARIAT, THIRUVANANTHAPURAM-695 001
6. THE DIRECTOR, KERALA STATE MEDICAL COUNCIL, COMBINED COUNCIL BUILDING, RED CROSS ROAD, NEAR GENERAL HOSPITAL, THIRUVANANTHAPURAM, KERALA 695 035.
7. THE DIRECTOR, LIFE LINE, SUPER SPECIALITY HOSPITAL, 14TH MILE, MELOOD POST, ADOOR, PATHANAMTHITTA DISTRICT, KERALA STATE 691 554.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the respondents 1 to 6 to consider Exhibit P3 representation, constitute an adhoc registry and grant special permission to petitioners and intended women for surrogacy procedure and direct the 7th respondent to facilitate the surrogacy procedure in his hospital within a period of 15 days for the interest of justice and for the ends of justice.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 11-03-2022 and upon hearing the arguments of the Parties in Person, ASG OF INDIA for R1 to R3, GOVERNMENT PLEADER for R4 and R5(B/0) and of advocate SANUJU.R for R7, the court passed the following:



N. NAGARESH, J.

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Dated this the 18th day of March, 2022

ORDER

Read interim order dated 11.03.2022.

2. As directed, the 7th respondent-Hospital has filed a Statement explaining the clinical facilities for surrogacy available in the Hospital and competency of the Physicians/Doctors with them. The learned Government Pleader submits that the Superintendent of Government Hospital, Mavelikkara constituted a Medical Board and has issued a Certificate of Medical Indication, as regards the surrogacy intended, on 14.03.2022.

3. The petitioner has produced Order of Parentage and Custody dated 14.03.2022, issued by the Judicial First Class Magistrate-I, Mavelikkara. Exts.P6 and P6(1) Insurance Policies are also taken by the petitioner paying the prescribed premium. The petitioner has also produced

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Ext.P7 Medical and Psychological Fitness Certificate in respect of the surrogate mother issued by Dr. Nizamudeen A.S. Ext.R7(d) signed by the surrogate mother would disclose that the 7th respondent has explained all known side effects of the procedure of the surrogacy to her. The surrogate mother has given Ext.R7(d) consent.

4. As necessary precautions are taken, this Court is of the view that further directions are to be given in this case, pending the writ petition.

5. The 7th respondent is therefore permitted to facilitate the non-commercial and altruistic surrogacy for the petitioners.

Post on 23.05.2022.

Sd/-
N. NAGARESH
JUDGE

ncd/18.03.2022

Handover

APPENDIX OF WP(C) 7472/2022

- Exhibit P3:** THE TRUE COPY OF THE REPRESENTATION DATED 23.02.2022.
- Exhibit P6:** THE TRUE COPY OF THE RECEIPT OF THE FIRST PREMIUM RS.3,000/- ISSUED BY THE LIFE INSURANCE CORPORATION DATED 14-03-2022.
- Exhibit P6(I)** THE TRUE COPY OF THE RECEIPT OF THE PREMIUM PAID FOR 3 YEARS TOGETHER, FROM 16-03-2022 TO 15-03-2025, TO THE SBI HEALTH INSURANCE COMPANY FOR RS.17,447/- DATED 16-03-2022.
- Exhibit P7** THE TRUE COPY OF THE MEDICAL AND PSYCHOLOGICAL FITNESS CERTIFICATE ISSUED BY THE REGISTERED MEDICAL PRACTITIONER DR.NISAMUDEEN A.S.DATED 14-03-2022
- Exhibit R7(d)** THE TRUE COPY OF THE WRITTEN CONSENT LETTER IN MALAYALAM, DATED 14.03.2022

