

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

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THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 9706 of 2026

AND

WMP NO. 10478 OF 2026

K.Nirmala Devi
W/o.K.Gunabalan 251/1, Pethukutti
Street, Pushpavanam Post – 614 809
Vedharanyam Taluk, Nagapattinam
District.

Petitioner(s)

Vs

1. State of Tamil Nadu
Rep. by its Principal Secretary to
Government Namakkal Kavingar
Maaligai 4th Floor, Fort St. George
Chennai 600009.

2.The Director
Directorate of Medical and Rural
Health Service No.359 DMS Complex,
361 Anna Salai Chennai 600006.

3.The Joint Director Of Health Service
District Medical Board O/o.Joint
Director of Health Service No.359
DMS Complex, 361 Anna Salai
Chennai 600006.

4.National Surrogacy Board
Department of Health Research 2nd
Floor IRCS Building 1, Red Cross
Road New Delhi 110001.

5.Tamil Nadu State Surrogacy Board
Directorate of Medical and Rural
Health Service No.359 DMS Complex,



361 Anna Salai Chennai 600006.

6.The Secretary

Health and Family Welfare Department
Government of Tamil Nadu Namakkal
Kavingar Maaligai 4th Floor, Fort St.
George Chennai 600009.

7.The Secretary To Government Of
India

Ministry of Health and Family Welfare
Department of Health Research 2nd
Floor IRCS Building 1, Red Cross
Road New Delhi 110001.

8.Maruthi Medical Centre And
Hospitals

Perundurai Road Erode 638011.

Respondent(s)

WMP No. 10478 of 2026

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PRAYER

Declaring that the Upper Age Limit under Section 21(g) of the ART Act, 2021 and the Letter dated 02.01.2026 issued by the 8th respondent as illegal and unconstitutional and violative of Article 14 of the Constitution and that the new upper age limit fixed in the above provision is not applicable to the petitioner who have already started the IVF treatment based on the old guideline and before coming into force of the above provision by giving retrospective application.

WMP No. 10478 of 2026

PRAYER

To grant an ad-interim direction, directing the respondents 1 to 7 to permit 8th



respondent hospital to continue and complete the IVF treatment, without reference to the upper age limit fixed for the petitioner for availing the IVF treatment under Section 21(g) of the ART Act, and without reference to the 8th respondent hospital communication dated 02.01.2026 pending disposal of the above writ petition.

For Petitioner(s): Mr.G.Veerapathiran

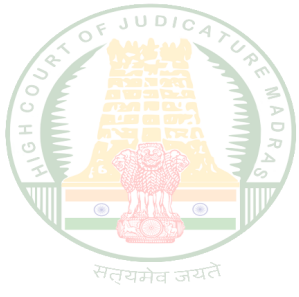
For Respondents: Ms.M.Sneha, Spl.G.P.
for R1 to R7

ORDER

The learned counsel appearing for the petitioner submitted that the petitioner has not conceived even after several years of marriage. The petitioner started to take treatment in the year 2015 and as per the advice of the Doctors, the petitioner had taken treatment through IUI, however, she did not conceive. Thereafter, the petitioner was advised to take treatment through IVF. During January, 2024, the petitioner and her husband went to Maruthi Medical Centre and Hospitals at Perundurai Road, Erode and underwent all the tests and after the test result, the petitioner was advised to take Government Doctor's opinion. Thereafter, the Hospital Authority directed the petitioner to obtain exemptions from the Court since as per Section 21(g) of the Assisted Reproductive Technology (Regulation) Act, 2021, the clinics shall apply the assisted reproductive technology services to a woman above the age of 21 years and below the age of 50 years and to a man above the age of 21 years and below the age of 55 years.

2.The learned Special Government Pleader submitted that similar issue was raised before the Hon'ble Division Bench of this Court in W.P.Nos.16191 of 2024 etc., batch and paragraph nos.11 and 13 of the order dated 20.11.2025 made in the said batch reads as follows:

"11.Having considered the submissions of the learned counsel for the parties and taking into consideration the nature of relief which has been sought in these petitions, we are inclined to direct that all the petitioners herein be subjected to medical examination, if not already subjected to, by the appropriate medical authority provided under the District Appropriate Authority, District ART and Surrogacy Board, if it is constituted; or by a medical board as may be nominated by the Chief Medical Health Officer of the District.



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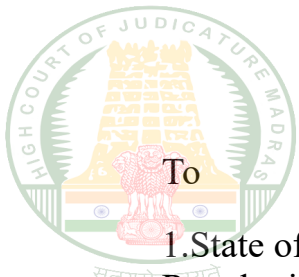
13. If medical examination, so ordered reveals that the petitioners are physically, emotionally and mentally fit, the benefit shall be made available, as provided under the law.”

3.Considering the submissions made on either side, this Court is inclined to direct that the petitioner be subjected to medical examination by the appropriate medical authority provided under the District Appropriate Authority, District ART and Surrogacy Board, if it is constituted; or by a medical board as may be nominated by the Chief Medical Health Officer of the District. If medical examination, so ordered reveals that the petitioner is physically, emotionally and mentally fit, the benefit shall be made available, as provided under the law.

4.Post the writ petition along with W.P.Nos.16191 of 2024 etc., batch after obtaining appropriate orders from The Hon’ble The Chief Justice.

11-03-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No



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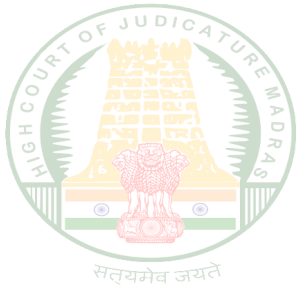
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