

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2025

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THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 45274 of 2025

AND

WMP N0.51841 of 2025

1. Kumaresan Chinnaswamy
S/o.Chinnasamy, No.1313, Jeeva Nagar,
Kondappanaickenpatti, Kannankurichi,
Salem, Tamilnadu. and another

2.Kalaiselvi Kumaresan
W/o.Kumaresan, D/o.Marimuthu, No.1313, Jeeva Nagar,
Kondappanaickenpatti, Kannankurichi, Salem, Tamil Nadu.

Petitioner(s)

Vs

1. Union Of India
Rep. By Its Secretary, Ministry Of Health
And Family Welfare, Nirman Bhawan,
New Delhi-110 011.

2.The National Medical Commission,
Rep. By Its Chairman, Pocket-14,
Sector-8, Dwarka 5 Phase-i, New
Delhi-110 077.

3.Principal Sectary To The Government,
Department Of Health And Family
Welfare, Government Of Tamil Nadu
Secretariat, Chennai-600 009.

4.The State Assisted Reproductive
Technology And Surrogacy Board,
State Of Tamil Nadu, Rep. By Its
Chairperson, Secretariat, Chennai-600
009



5.M/s. The Director
Tamil Nadu Medical Council,
Poonamalle High Road, Pursawalkam,
Chennai-600 084.

6.M/s Akshaya Fertility Centre,
No.15, Gandhi Road, Shankar Nursing
Home Campus, Salem-636 007.

Respondent(s)

For Petitioner(s): Mr.S.Ambigai
For Mr.M.Sneha, Spl GP for R3 & R4
Respondent(s): Mr.B.Rabu Manohar, Sr.C.G. for R1
Mrs.V.Sudha, Sr.C.G.S.G for R2
Mr.U.Baranidharan for R5

ORDER

This Court, on 01.10.2024, in similar Writ Petition in W.P.No.29230 of 2024, after hearing the learned counsel for the parties, has passed the following:

“Mr.Rajesh Vivekanand, learned counsel takes notice on behalf of the first respondent. M/s.Shubaranjani Ananth, learned counsel takes notice on behalf of the second respondent. Mr.U.Baranidharan, learned Additional Government Pleader takes notice on behalf of the respondents 3 to 5. Notice to the sixth respondent returnable by 22.10.2024. Private notice is also permitted.

2. The learned counsel appearing for the petitioner submitted that similar issue came up for consideration before the Hon'ble Division Bench of this Court in W.P.No.12047 of 2023 and the Hon'ble Division Bench of this Court granted an



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order of interim direction on 19.04.2023.

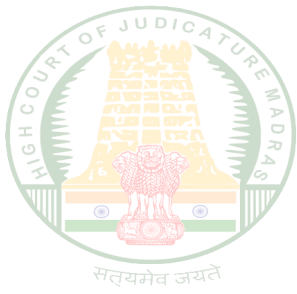
3. For better appreciation, the relevant portion of the order of the Hon'ble Division Bench of this Court dated 19.04.2023 in W.P.No.12047 of 2023 is extracted hereunder:

“The issue raised in this writ petition is squarely covered by the judgment of the Hon'ble High Court of Kerala in a batch of cases, WP(C) No.24058 of 2022 (between Nandini K and Union of India), etc. dated 19.12.2022 and relevant portions of the judgment are as hereunder:-

“13. ... As mentioned earlier, some of the petitioners were undergoing assisted reproductive technology services when the ART Act was introduced on 25.01.2022. The prohibition under Section 21(g), if understood to be preventing even continuance of ART services already commenced, would definitely amount to unreasonable and unjustified restriction on the reproductive choice of the commissioning couple and would militate against the liberty guaranteed under Article 21.

14. ... Based on the above discussion, the following directions are issued;

- i. Those among the petitioners who were undergoing ART services as on 25.01.2022 shall be permitted to continue their treatment.
- ii. The National Board shall alert the Central Government about the need for having a relook at the upper age limit prescribed in Section 21(g) of the Act.
- iii. The National Board shall also bring to the notice of the Central Government the requirement of including a transitional provision in the ART Act.
- iv. The above directions shall be complied by



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the National Board within three months of receipt of a copy of this judgment.

v. Those among the petitioners who are yet to commence their ART treatment shall await the decision of the Central Government on the upper age limit and the transitional provision.

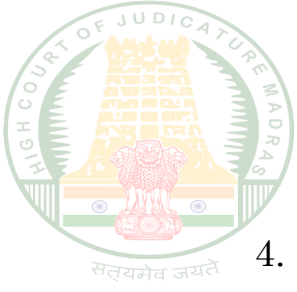
vi. The liberty of the petitioners to approach this Court at a later stage, if so, necessitated, is reserved.”

2. Mr.Prasad Vijayakumar, learned Special Panel Counsel, takes notice on behalf of respondents 1 and 2/Union of India and Mr.P.Muthukumar, learned State Government Pleader, takes notice on behalf of the fourth respondent.

3. Since, in this case, the petitioner is undergoing treatment even before the date of commencement of the Assisted Reproductive Technology (Regulation) Act, 2021, i.e., 25.01.2022, he will be entitled for the same interim order as granted by the High Court of Kerala.

4. Accordingly, there shall be an order of interim direction as prayed for on the same terms as in the judgment of the High Court of Kerala, as extracted above, pending disposal of the writ petition.”

4.Accordingly, there shall be an order of interim direction as prayed for on the same terms as in the order of the Hon'ble Division Bench of this Court dated 19.04.2023 in W.P.No.12047 of 2023, as extracted above, pending disposal of the writ petition.



5.Post the matter on 22.10.2024. 01.10”

4. In view of the above, there shall be an order of interim direction as prayed for on the same terms as in the order of the Hon'ble Division Bench of this Court dated 19.04.2023 in W.P.No.12047 of 2023 as extracted above, pending disposal of the Writ Petition.

5. List the matter along with connected Writ Petitions.

26.11.2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1. Union Of India

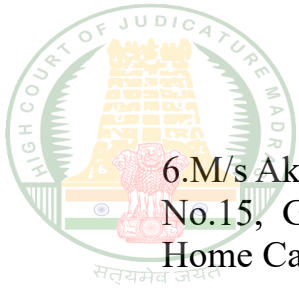
Rep. By Its Secretary, Ministry Of Health
And Family Welfare, Nirman Bhawan, New
Delhi-110 011.

2.The National Medical Commission,
Rep. By Its Chairman, Pocket-14, Sector-8,
Dwarka 5 Phase-i, New Delhi-110 077.

3.Principal Sectary To The Government,
Department Of Health And Family Welfare,
Government Of Tamil Nadu Secretariat,
Chennai-600 009.

4.The State Assisted Reproductive
Technology And Surrogacy Board,
State Of Tamil Nadu, Rep. By Its
Chairperson, Secretariat, Chennai-600 009

5.M/s. The Director
Tamil Nadu Medical Council, Poonamalle
High Road, Pursawalkam, Chennai-600
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6.M/s Akshaya Fertility Centre,
No.15, Gandhi Road, Shankar Nursing
Home Campus, Salem-636 007.

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M.DHANDAPANI, J.

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