



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 152 OF 2025 (GM-RES)

BETWEEN:

UNION OF INDIA
REPRESENTED BY SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
DEPARTMENT OF HEALTH RESEARCH
GOVERNMENT OF INDIA
IRCS BUILDING, NEW DELHI-110 001.

...APPELLANT

(BY SRI. L ARVIND KAMATH, ASGI A/W
SRI M N KUMAR CGSPC.)

AND:

1. SHRI. H SIDDARAJU
S/O LATE HENJARAPPA
AGED ABOUT 57 YEARS
RESIDING AT NO.502, 'A' BLOCK
4-72, DIVYA MSR GATEWAY
OFF M.S.RAMAIAH ROAD
GOKULA, BENGALURU-560054.
2. SMT. K ANITHA
W/O H SIDDARAJU

Digitally signed
by PRABHAKAR
SWEETIA
KRISHNAN

Location: High
Court of
Karnataka



AGED ABOUT 45 YEARS
NO.502, A BLOCK, 4-72
DIVYA MSR GATEWAY, OFF M.S.RAMAIHAH ROAD
GOKULA, BENGALURU-560054.

3. THE KARNATAKA STATE ASSISTED REPRODUCTIVE
TECHNOLOGY AND SURROGACY BOARD
DEPARTMENT OF HEALTH AND FAMILY WELFARE
GOVERNMENT OF KARNATAKA VIKASA SOUDHA
BENGALURU-560 001
REPRESENTED BY ITS SECRETARY.
4. APPROPRIATE AUTHORITY
UNDER THE SURROGACY ACT
K.C. GENERAL HOSPITAL, MALLESWARAM
BENGALURU 560 003.

...RESPONDENTS

(BY SMT. NAMITHA MAHESH, AGA FOR R3 & R4
SRI. MALLIKARJUNA N, ADVOCATE FOR
SRI. SAMPATH A.,ADVOCATE FOR R1 & R2)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
FINAL ORDER DATED 21.04.2023 PASSED IN WRIT PETITION
NO. 5861/2023 (GM-RES) BY THE LEARNED SINGLE JUDGE
OF THIS HONBLE COURT AND ALLOW THE WRIT APPEAL
AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:



CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The present appeal is filed impugning the order dated 21.04.2023 passed by the learned Single Judge of this Court in W.P.No.5861/2023.

2. Learned ASG appearing for the appellant submits that, in the present case, the learned Single Judge has accepted the fixing of age limits under the Surrogacy Regulation Act, 2021 [hereinafter referred to as '**the Act**'] as not irrational. However, notwithstanding the same, the learned Single Judge has laid down a triple test, which is being construed as overriding age restrictions as set out in the Act. He submits that, in so far as the respondents are concerned, the surrogacy procedure has resulted in birth of twins and therefore the outcome of the appeal would not affect the respondents in any manner.



3. The learned counsel appearing for respondent Nos.1 and 2 submits that a batch of petitions which involve the question as to the constitutional validity of the age restrictions as set out in the Act, are pending consideration.

4. The learned ASG submits that the appellant would be satisfied, if it is clarified that the present judgment would not be considered as a precedent to foreclose examination of various issues that are pending for hearing in a batch of writ petitions.

5. We note that although certain observations have been made by the learned Single Judge, the constitutional validity of the age restrictions has not been examined. It is settled law that in cases where the Court finds substance in challenge to the constitutional validity of a statutory provision; it is open for the Court to read down the provisions so as to uphold its constitutional validity. The question whether age restrictions as specified are required to be qualified or read down, is also a matter to be considered by the Court in pending batch of petitions.

6. The triple test may be construed as qualifying the age restrictions. Therefore, we also consider it appropriate to observe



that the batch of petitions which are pending relating to the challenge to the provisions of the Act, ought to be considered uninfluenced by any of the observations made in the impugned order.

7. The present appeal is rendered academic as the surrogacy procedures has resulted in birth of the twins. Considering the same, the submission of the learned ASG and the fact that a batch of petitions involving issues relating to the challenge to the provisions of the Act and their interpretation are pending; we consider it apposite to dispose of the present appeal with the aforesaid observations.

8. All pending applications are also disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

CM
LIST NO.: 1 SL NO.: 35