



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.40634 OF 2025

Swati Sharad Parab and Anr.Petitioners

Versus

Union of India and Ors.Respondents

Ms. Kalyani Tulankar for the Petitioners.

Ms. Jaymala Ostwal, Addl. GP a/w. Ms. Usha Rahi, AGP for the
Respondent – State.

CORAM : RAVINDRA V. GHUGE
&
ABHAY J. MANTRI, JJ.

DATE : 23rd MARCH, 2026

P.C. :-

1. The Petitioners have put forth prayer clauses (a) and
(b), which read thus :

(a) That this Hon'ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, order, or direction, under Article 226 of the Constitution of India, 1950 declaring that the Section 21 (g) of the Assisted Reproductive Technology Act, 2021, is unconstitutional and ultra vires to the Part III of the Constitution of India, 1950, and therefore this Hon'ble Court be pleased to strike down the provisions of Section 21(g) of the Assisted Reproductive Technology Act, 2021.

(b) As and by way of interim relief, this Honourable Court be pleased to permit the Petitioners to undergo treatments through Assisted reproductive techniques to conceive a child through Donor Gametes.

2. We are informed by the learned Advocate for the Petitioners that the State Government has introduced a condition in the Assisted Reproductive Technology Act, 2021, that a male sperm donor, is permitted to donate upto a maximum of 55 years of his age, and a woman, who is to accept the sperm donated and nurture the foetus in her womb, can be a recipient upto a maximum of 50 years of her age.

3. In the first Petition, the lady is 55 years of age, and in Writ Petition (lodging) No.40051 of 2025, the lady is 53 years of age. Both claim to have been issued with medical certificates by a Gynecologist stating that they are fit and capable of carrying a pregnancy to full term and deliver a child.

4. We do not find any research made and pleaded in the Petitions whereby it could be *prima-facie* said that the Petitioner women can be held to be medically fit and competent to forbear a pregnancy in their advanced age in life and give birth to children.

5. In such matters, where the claims are not supported by any analytical data based on medical science and research, we are of the view that an Amicus Curiae needs to be appointed to assist the

Court. We requested the learned Senior Advocate, Mr. Ashutosh Kumbhakoni, to assist the Court, and he has graciously agreed. We, therefore, appoint him as Amicus Curiae in this matter.

6. The learned Advocate for the Petitioners, with equal graciousness, submits that she will render fullest assistance to the learned Amicus Curiae and, if required, carry out amendments to incorporate appropriate pleadings upon proper research. With the guidance of the learned Amicus Curiae, the learned Advocate for the Petitioners would carry out such amendments within a period of three weeks from today.

7. List this Petition on **22nd April, 2026**, in the ‘**Urgent Supplementary Board**’ along with Writ Petition (lodging) No.40051 of 2025.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)