

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA
Monday, the 9th day of March 2026 / 18th Phalguna, 1947
WP(C) NO. 9271 OF 2026 (H)

PETITIONER:

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE, SASTHRI BHAVAN, NEW DELHI, PIN - 110 001.
2. THE NATIONAL ART AND SURROGACY BOARD, REPRESENTED BY THE EX-OFFICIO VICE CHAIRPERSON, (THE SECRETARY, DEPARTMENT OF HEALTH RESEARCH), DEPARTMENT OF HEALTH RESEARCH, 2ND FLOOR, IRCS BUILDING 1, RED CROSS ROAD, NEW DELHI, PIN - 110 001.
3. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
4. THE DISTRICT REPRODUCTIVE & CHILD HEALTH ("RCH") OFFICER, DISTRICT MEDICAL OFFICE, KOZHIKODE, 2ND FLOOR, 5/283A, WAYANAD RD, ERANHIPAALAM, MALABAR HOSPITAL, CIVIL STATION, PALATTUTHAZHAM, KOZHIKODE, KERALA, PIN - 673 020.
5. BABY MEMORIAL HOSPITAL, KOZHIKODE, REPRESENTED BY ITS MANAGING DIRECTOR, INDIRA GANDHI RD, ARAYIDATHUPALAM, KOZHIKODE, KERALA, PIN - 673 004.
6. KOKOORI LAPROSCOPIC & IVF CLINIC, KOZHIKODE, REPRESENTED BY ITS MANAGING PARTNER, AMRITA AVENUE, WAYANAD RD, MALAPARAMBA, KOZHIKODE, KERALA, PIN - 673 009.

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 5th respondent hospital to allow extraction and cryopreservation of the gametes of _____ by availing the services of 6th Respondent or any other recognized ART clinics, for use by the petitioner pending disposal of this case so as to secure the ends of justice.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.SUKARNAN, NESMEL DIVAN, AKHIL VINAYAN & SAURAV SHAJI, Advocates for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for the respondents 1 & 2 and of GOVERNMENT PLEADER for the respondents 3 & 4, the court passed the following:

M.B. SNEHALATHA, J.

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Dated this the 09th day of March, 2026

ORDER

Admit.

Learned DSGI takes notice for respondents 1 and 2. The learned Government Pleader takes notice for respondents 3 and 4. Issue notice to respondents 5 and 6.

2. The petitioner who is the wife of _____ has filed this writ petition stating that her husband is undergoing treatment at the 5th respondent-hospital. Her case is that according to the Doctors of the hospital, her husband suffers from extensive cerebral venous thrombosis post 2 weeks of chicken pox which has now resulted in his brain death and he is currently kept alive with ventilator support. In support of the same, she has produced Ext.P2 certificate issued by the 5th respondent. Petitioner's case is that she is desirous of extracting and cryopreserving gametes of her husband who is unable to grant consent to the same as contemplated under Section 22 of the Assisted Reproductive Technology ("ART") Act due to his present medical condition for future use by the petitioner to undergo ART services.

3. The case of the petitioner is that in view of the critical condition of her husband namely _____ there is no possibility of obtaining written informed consent from him, and if the matter is delayed any further, irreparable hardship may be caused in view of his health

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condition and the impending chance of paternity. It is also submitted by the learned counsel for the petitioner that the 5th respondent-hospital is having licence under the ART (Regulation) Act for extracting and preserving the gametes.

4. Having heard the learned counsel for the petitioner, the learned DSGI and the learned Government Pleader.

5. Interim relief is granted directing the 5th respondent-hospital to allow the extraction and cryopreservation of the gametes of

by allowing the services of the 6th respondent or other recognized ART clinics. It is also made clear that, other than the extraction and preservation of the gametes, no further procedure under the Assisted Reproductive Technology (Regulation) Act shall be carried out without the permission of this Court.

Post on 07.04.2026.

Sd/-

**M.B.SNEHALATHA
JUDGE**

**SMA
H/o**

APPENDIX OF WP(C) 9271/2026

Exhibit P2

TRUE COPY OF THE CLINICAL SUMMARY OF THE HUSBAND OF THE PETITIONER ISSUED BY DR. PROF. SHAKIR HUSAIN HAKIM OF THE 5TH RESPONDENT HOSPITAL DATED 08/03/2026

