



ABSTRACT

Writ Petitions - W.P. (MD) No.4125/2019 and 3220/2019 – Filed by Arunkumar and Sreeja – Direction of Hon'ble Madurai Bench of Madras High Court to ban sex reassignment surgeries on intersex infants and children - Orders – Issued.

HEALTH AND FAMILY WELFARE (M-2) DEPARTMENT

G.O.(Ms) No. 355

Dated: 13.08.2019

விகாரி, ஆடி-28

திருவள்ளூர்வராண்டு –2050

Read:

1. Orders of the Hon'ble Madurai Bench of Madras High Court dated 22.04.2019 in W.P. (MD) No. 4125/2019 and 3220/2019 filed by Arunkumar and Sreeja.
2. From the Director of Medical Education letter No.41586/H&DII/3/2019. Dated:18.06.2019

ORDER:

The petitioners Arunkumar and Sreeja have filed a Writ Petition (W.P. (MD) No.4125/2019 and 3220/2019) before the Hon'ble Madurai Bench of Madras High Court when the Joint Registrar No.II, Office of the Joint Registrar, Tuticorin has refused to register their marriage and the appellants authority, viz, the District Registrar, Tuticorin and District has also concurred with the decision of the Joint Registrar No.II

2. In its order first read above, the Hon'ble Madurai Bench of Madras High Court has directed the 4th respondent (Secretary to Government, Health and Family Welfare Department soumoto) to issue Government order enshrining the mandate of the Hon'ble Supreme Court so as to effectively ban sex reassignment surgeries on intersex infants and children and also directed to file a compliance report before the registry within a period of eight weeks from the date of receipt of a copy of the order.

2. The term "Intersex" refers to People born with physical and biological sex characteristics that are more diverse than stereotypical definitions for male or female bodies. With around 40 different recognized types of intersex variation, there is a huge diversity among intersex people to be acknowledged. Intersex variation can be picked up at any time during life. It is not always something that is obvious from birth. There is no ONE Intersex experience.

3. The World Health Organisation has published a report titled "Sexual Health Human Rights and Law", wherein among others, intersex people may face discrimination and stigma in the health system, in many cases being subjected to lack of quality of care, institutional violence and forced interventions throughout their lifetime. A major concern for intersex people is that so-called sex normalizing procedure are often undertaken during their infancy and childhood, to alter their bodies particularly the sexual organs, to make them conform to gendered physical norms, including through repeated surgeries, hormonal interventions and other measures. As a result, such children may be subjected to medically unnecessary, often

irreversible, interventions that may have lifelong consequences for their physical and mental health, including irreversible termination of all or some of their reproductive and sexual capacity. Medical procedures may sometimes be justified in cases of conditions that pose a health risk or are considered life-threatening. Such procedures, however, are sometimes proposed on the basis of weak evidence, without discussing and considering alternative solutions.

4. The Hon'ble Supreme Court in National Legal Services Authority case categorically stated that no one shall be forced to undergo medical procedures, including Selective Reassignment Surgery, sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity.

5. In this regard, the remarks of the Director of Medical Education has been called for and he has forwarded the expert opinion on this subject. The Professor and Head of the Department, Department of Plastic, Reconstructive and Facio-Maxillary Surgery, Rajiv Gandhi Government General Hospital has opined that Sex Reassignment Surgery should not be done on infants and children. The members of the Indian Association of Paediatric Surgeons has opined that any order banning sex reversal surgeries must exclude surgeries regarding Disorders or Sex Development and proposed to set up a committee to support the medical intervention in case of necessity.

5. The Government after careful examination of all the above points and based on the opinions of the experts as forwarded by the Director of Medical Education, have decided to ban sex reassignment surgeries on intersex infants and children except on life-threatening situations and ordered accordingly. The life-threatening situation shall be decided by the Government based on the recommendation of the Director of Medical Education who shall form a committee comprising of 1) Paediatric Surgeon/Urologist 2) Endocrinologist 3) Social Worker / Psychology worker / intersex activist and 4) a Government representative not below the rank of Under Secretary to the Government. The Director of Medical Education shall take every step to ensure that the above exceptional clause of life-threatening situation shall not be misused in any way by anyone which shall affect the implementation of the ban on sex reassignment surgeries on intersex infants and children.

(BY ORDER OF THE GOVERNOR)

**BEELA RAJESH
SECRETARY TO GOVERNMENT**

To
All Departments of the Secretariat.
The Director of Medical Education, Chennai-10.

Copy to:
The Registrar, Hon'ble Madurai Bench of Madras High Court,
The Health and Family Welfare (Data Cell) Department, Chennai – 9.
Stock File / Spare Copy.

// FORWARDED / BY ORDER //

S. Rajesh
SECTION OFFICER
16/1/19