

News

Kerala High Court calls for SIT probe into illegal surrogacy, egg donation claims



The Court asked the government counsel to seek orders from State police chief in this regard.

The Kerala High Court recently emphasised that the allegations of illegal egg donation and surrogacy practices being carried out under the guise of Assisted Reproductive Technology (ART) services must be probed by a Special Investigation Team (SIT) [ART Bank Rep by its Managing Director, Abdul Muthalif MA v. State Police Chief of Kerala].

A division bench of Justice Devan Ramachandran and Justice MB Snehathatha asked a

government pleader to receive instructions from the State police chief in this regard and inform the Court about the same on December 10, the next date of hearing.

"We are of the view that a special investigation team should be now constituted so that all aspects can be properly considered," the Court said.

The Court passed the order on a petition filed by an ART bank, which claimed that certain women, who willingly visited its premises for medical screening, were illegally taken into custody by the police and health officials and housed at Shanthi Bhavan, a government run shelter home in Ernakulam.

During the hearing of the case, the Court was informed about many disturbing instances of unlawful activities linked to ART and surrogacy services at different institutions.

On December 5, the government pleader submitted a report of the Station House Officer of Kalamassery Police Station which said that while a complaint in the matter has been filed before the Judicial First Class Magistrate Court at Kalamassery, further investigation has been put on hold pending judicial orders.

The report further stated that the preliminary investigation showed several unlawful activities, including online advertisements offering monetary incentives, inducing women to give eggs and recruiting women for surrogacy as part of the illegal racket.

In the order, the Court observed that authorities can proceed in the case without waiting for orders from the magistrate.

"We have little doubt that the investigation must be conducted strongly and that the Police and the authorities need not wait for orders from the Judicial Magistrate of the First Class for such purpose, except with respect to the aspects that have been impelled before it," the Court said.

Earlier, the Court had on October 17 noted that several people, institutions and even donors carried out prohibited activities in violation of the provisions of Surrogacy (Regulation) Act, 2021 and the Assisted Reproductive Technology (Regulation) Act, 2021

It had stated that ignorance of the patients and donors, combined with inducement through

financial incentives, was leading to the violations.

Terming it as an alarming policy failure, the Court had then ordered the State to ensure that the essential provisions of ART Act and Surrogacy Act are permanently displayed in ART clinics, ART banks, surrogacy centres and hospitals across Kerala, both in English and Malayalam.

Advocate Gikku Jacob appeared for ART Bank.

Public prosecutor NB Sunil Nath appeared for the state and its officials.

Shanthi Bhavan was represented by lawyers Ferha Azeez, Sreerag Shylan, Devananda S, and Sandhya Raju