

ITEM NO.302

COURT NO.7

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(Civil) No. 960/2021

HAMSAANANDINI NANDURI

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA No. 46892/2023 - ADDITION / DELETION / MODIFICATION PARTIES
IA No. 13155/2025 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 12-12-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :

M/S. Mukesh Kumar Singh And Co., AOR
Ms. Bani Dikshit, Adv.
Mr. Uddhav Kumar, Adv.
Mr. Krishan Kumar, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. Narendra Kumar Goyal, Adv.
Mr. Jeetendra Kumar, Adv.
Mr. L Sivaraman, Adv.
Ms. T Geetha, Adv.
Mr. Ganesh Kamath, Adv.
Mr. Rohit Dubey, Adv.
Ms. Kajal Rani, Adv.
Ms. Komal Singh, Adv.
Mr. Kadam Hans, Adv.

For Respondent(s) :

Mr. K.M Nataraj, A.S.G.
Mr. Shailesh Madiyal, Adv.
Mr. Sandeep Kumar Mahapatra, Adv.

Mr. Vatsal Joshi, Adv.
Mr. Praneet Pranav, Adv.
Mr. Amrish Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. This petition, filed in Public Interest was heard finally and reserved for pronouncement of judgment.
2. The subject matter of challenge in the present petition is to the constitutional validity of Section 5(4) of the Maternity Benefit Act, 1961 (for short "the Act, 1961"), which came to be inserted by the Maternity Benefit (Amendment) Act, 2017.
3. The provision which has been made a subject matter of challenge entitles mothers who legally adopt a child below the age of three months the maternity benefit for a period of twelve weeks from the date on which the child is handed over to the adoptive mother. This according to the petitioner is violative of Articles 14, 19(1)(g) and 21 of the Constitution of India, respectively.
4. Before we could pronounce the judgment, it was brought to our notice that the Code on Social Security, 2020 (for short

“the 2020 Code”) now amends and consolidate all the laws relating to social security including that of the Act, 1961. The 2020 Code was published in the Official Gazette on 29.09.2020.

5. However, what is relevant to note is that Section 60(4) of the 2020 Code is *pari materia* to Section 5(4) of the Act, 1961.

6. After a period of more than 5 years i.e. on 21.11.2025, the Ministry of Labour and Employment issued a notification bringing into force several provisions of the aforesaid 2020 Code.

7. The contents of notification are reproduced as under:-

**“MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION
New Delhi, the 21st November, 2025**

S.O. 5319(E).—In exercise of the powers conferred by sub-section (3) of section 1 of the Code on Social Security, 2020 (36 of 2020), the Central Government hereby appoints the 21st day of November, 2025 as the date on which the following provisions of the said Code, shall come into force, namely: -

Sl.No.	Provisions of the Code
1	sections 1 to 14
2	sub-sections (1) and (2) of section 15;
3	clause (c) of sub-section (1) of section 16;
4	sections 17 to 141; section 143, except the provisions of
5	the Code specified at serial number (v) of S.O. 2060 (E), dated the 3rd May, 2023;

6 sections 144 to 163;
7 Items 1 and 2 and items 4 to 9 of sub-
8 section (1) of section 164;
clause (a) and clause (c) of sub-
section (2) and sub-section (3) of
section 164.

(Emphasis supplied)

It is evident from the aforesaid notification that Items 1 and 2 along with Items 4 to 9 of sub-section (1) of Section 164 of the 2020 Code were also brought into effect on the same date. Section 164 of the 2020 Code which is a repeal and savings provision, reads thus:

“Repeal and savings - 164. (1) The following enactments are hereby repealed, namely:—

- 1. The Employee's Compensation Act, 1923;*
- 2. The Employees' State Insurance Act, 1948;*
- 3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952;*
- 4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959;*
- 5. The Maternity Benefit Act, 1961;*
- 6. The Payment of Gratuity Act, 1972;*
- 7. The Cine-Workers Welfare Fund Act, 1981;*
- 8. The Building and Other Construction Workers' Welfare Cess Act, 1996;*
- 9. The Unorganised Workers' Social Security Act, 2008.[...]*
(Emphasis supplied)

Item 5 of sub-section (1) of Section 164 pertains to the Act, 1961. Therefore, it is now clear that w.e.f 21.11.2025, the Act, 1961 stood repealed.”

8. We were of the view that the learned counsel appearing for the petitioner should withdraw this petition with permission to file a fresh petition challenging the provision of Section 60(4) of the 2020 Code.

9. However, taking into consideration the fact that Section 5(4) of the Act, 1961 is *pari materia* to Section 60(4) of the 2020 Code, we permit the learned counsel to amend the petition within a period of six weeks accordingly.

10. The learned counsel appearing for the Union of India has no serious objection to this.

11. Once the amended petition comes on record, we shall thereafter notify the judgment for pronouncement.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)