

Most Immediate

No. V.25011/119/2015-HR
Government of India
Ministry of Health & Family Welfare
(Department of Health Research)

2nd Floor, IRCS Building,
Red Cross Road, New Delhi-110001.
Dated, the 04th, November, 2015

To

1. Chief Secretaries of all States / Administrators of UTs
2. Principal Secretaries / Secretaries of Health & Family Welfare Department of all States / Union Territories Governments.

Subject: Commissioning of surrogacy-instructions regarding

Sir / Madam,

In continuation of this Department's letter of even no. dated 23rd June, 2015 regarding the "Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India", this Department has taken the policy decision, in consultation with various Ministries/Departments of the Government, not to support commercial surrogacy. It is further stated that the enactment of the proposed "Assisted Reproductive Technology (Regulation) Bill" is under consideration in the Department of Health Research (DHR) under Ministry of Health and Family Welfare. Till enactment of the said legislation, the following instructions of this Department will prevail and be applicable to Surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centers/Genetic Laboratories/ART Banks or such other clinical establishment of any kind offering surrogacy services/Assisted Reproduction Services. The instructions are as under:



- i) that as per the Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade Notification No. 25/2015-2020, dated 26.10.2015, import of 'Human Embryo' is prohibited except for research purposes based on the guidelines to be issued by DHR. The guidelines of DHR for import of Human Embryo for research purposes will be issued separately and in due course of time after consultation with various Ministries / Departments of the Union Government.
- ii) that the Surrogacy Clinics/ ART Clinics/ IVF Clinics/ any Centre / Genetic Counselling Centers / other clinical establishments, by whatsoever name they may be called, offering surrogacy services/ Assisted Reproduction Services will not import human embryo for offering surrogacy services or in connection thereto

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iii) that the Ministry of Home Affairs has now issued instructions *vide* their letter No. 25022/74/2011-F.1 (Vol.III), dated 03.11.2015, addressed to all States/ UTs/ Indian Missions abroad, etc., that Indian Missions/ Posts/FRROs/FROs shall ensure the following with immediate effect;

(a) No visa should be issued by the Indian Missions / Posts to foreign nationals intending to visit India for commissioning surrogacy.

(b) No permission should be granted by the Foreigners Regional Registration Officers (FRROs) / Foreigners Registration Officers (FROs) to Overseas Citizen of India (OCI) cardholders to commission surrogacy in India.

(c) No exit permission should be granted by the FRROs / FROs to the child / children to be born through surrogacy to foreign nationals including OCI cardholders. However, for child / children born through surrogacy already commissioned on or before issue of this circular, exit permission will be decided by FRROs / FROs on case-to-case basis.

(d) Visa, if any, granted by the Indian Missions /Posts to foreign nationals and permission, if any, granted by the FRROs / FROs to OCI cardholders, for commissioning surrogacy in India, from the date of issue of this Circular and date of receipt of the Circular, may be cancelled and the applicants may be informed of the position immediately.

The above instructions contained in the Ministry of Home Affairs circular dated 3.11.2015 may please be brought to the notice of the Surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centres/Genetic Laboratories/ART Banks or such other clinical establishment offering surrogacy services/Assisted Reproduction Services in your respective State jurisdictions.

(iv) However, there may be cases where - prior to issue of this letter action might have been initiated/taken by surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centres/Genetic Laboratories/ART Banks or such other clinical establishment to commission surrogacy, including import of 'Human Embryo' and implantation thereof into surrogate mother or child/children born from it. Such cases will be allowed to complete the processes already started to avoid medical complications. However, all such cases will approach the State Health Authorities for permission. The State Health Authorities will decide such cases on case to case basis.

2. Unethical practices in surrogacy, including illegal determination of sex by such clinical establishments, will continue to be dealt with as per existing MCI guidelines and existing provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 in force.


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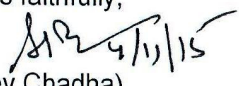
3. In this connection, it is also stated that the "Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India" circulated by this Ministry to all the States/UTs will remain in force till enactment of the legislation. However, in case any of the provisions contained in those guidelines come into conflict with the instructions being issued herewith, the instructions contained in this letter shall prevail over the corresponding provisions in the said guidelines.

4. These instructions will come into force with immediate effect. However, the Notification issued by the Department Commerce and the circular issued by the Ministry of Home Affairs, as mentioned above, will take their effect from the dates as mentioned in their respective Notification /Circular.

5. All state Governments are requested that the contents of this letter may be given wide circulation among all stakeholders in their respective State / UT and suitably conveyed to all ART / Surrogacy clinics/ IVF centres and other bodies and clinical establishments, by whatsoever name, in the State /UT, who are offering and conducting surrogacy services in the State / UT.

This issues with the approval of competent authority.

Yours faithfully,



(Sanjeev Chadha)

Director

Tel. No. : 011-23736218

Copy to:

1. Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhavan, New Delhi. *Their OM No. 272/1/2/2015-CA.V, dated 23.10.2015 refers.*
2. Secretary, Ministry of Home Affairs, North Block, New Delhi.
3. Secretary, Department of Health and Family Welfare, Nirman Bhawan, New Delhi.
4. Secretary, Ministry of External Affairs, South Block, New Delhi.
5. Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.
6. Secretary, Department of Commerce, Udyog Bhawan, New Delhi.
7. Secretary, Department of Revenue, North Block, New Delhi.
8. Secretary, Ministry of Women & Child Development, Shastri Bhawan, N.D.
9. Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chankya Puri, New Delhi-110021.
10. Secretary, Medical Council of India, New Delhi.
11. Director General, Indian Council of Medical Research, New Delhi
12. FFROs- (Ministry of Home Affairs), Delhi, Mumbai, Chennai, Kolkata, Amritsar, Bangalore, Hyderabad, Kochi, Thiruvananthapuram, Calicut, Goa, Lucknow and Ahmedabad.
13. NIC, Department of Health Research, with the request to host the contents on the website of DHR.


(Sanjeev Chadha)

Director

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