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CASE COMMENT: HAMSAANANDINI NANDURI v. UNION OF INDIA & ORS. (2026)

-Annora Sailwal

CITATION: 2026 INSC 246

BENCH: Justice J.B Pardiwala, Justice R. Mahadevan

JUDGEMENT: 17 March 2026

INTRODUCTION

The landmark judgment of *Hamsaanandini Nanduri v. Union of India & Ors.*¹ is crucial in the development of maternity benefits as it affirms the rights of adoptive mothers by declaring Section 60(4) of the Code on Social Security, 2020, arbitrary and unconstitutional. The provision stated that “A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.”² Undermined the holistic needs of an adopted child aged three months or above. The judgment highlights various flaws in the said provision, recognising emotional bonding and child integration as vital elements for both the mother and the child, regardless of age.

The court recognizes motherhood to be a state of providing a nurturing and caring environment for a child, whether the child comes biologically, through surrogacy, or adoption, mandating maternity benefit to be an essential component. It recognizes that the provision does not hold a rational nexus and is discriminatory towards adoptive mothers under Article 14. This ruling goes beyond technical compliance to reinforce the importance of maternity leave as a "basic human right" and as a means for social justice, where women are not forced to choose between

¹ Hamsaanandini Nanduri v. Union of India & Ors., 2026 INSC 246.

² The Code on Social Security, 2020 § 60(4), No. 36, Acts of Parliament, 2020 (India).

professional survival and maternal responsibility. This ruling recognizes adoption as an aspect of Reproductive Autonomy under Article 21 and has provided thousands of families with the dignity and economic security necessary for raising the next generation.³

BACKGROUND AND FACTS OF THE CASE

The petitioner, who is an adoptive mother of two children, has filed the petition under Article 32 of the Constitution, seeking a declaration to the effect that Section 5(4) of the Maternity Benefit Act, 1961 (MB Act), as amended by the Maternity Benefit (Amendment) Act, 2017 (Amendment Act, 2017) as unconstitutional. The Code on Social Security (2020 Code) repealed the MB Act when it came into force on November 21, 2025, rendering Section 60(4) of the 2020 Code to be dealing with the same subject matter. The core grievance was that the specified age limit of three months and above excluded adoptive mothers of older children and disregarded that they too require time for bonding, caring, and family integration. The petition challenged the validity of the provision, as violative of the right to equality and protection of dignity and autonomy under Article 14, restriction on a woman's right to carry on her trade, occupation, and business based on the child's age under Article 19(1)(g), child welfare, dignity, and women's reproductive autonomy under Article 21.

ISSUES

The issues in the case framed by the court were:

- i) Whether the age limit of three months stipulated under sub section (4) of Section 60 of the Social Security Code, 2020, could be said to be in violation of the Article 14 of the Constitution being discriminatory towards women who adopt a child aged three months or above?
- ii) Whether the age limit of three months stipulated under sub section (4) of Section 60 of the Social Security Code, 2020, could be said to be in violation of the right to reproductive autonomy of an adoptive mother and the right of the adopted child to holistic care and development under Article 21 of the Constitution?

ARGUMENTS

³ Yoga Dharshini M, *BEYOND BIOLOGY: ANALYSING THE IMPACT OF THE 2026 SUPREME COURT'S MANDATE ON ADOPTIVE MATERNITY LEAVE UNDER SECTION 60 OF THE SOCIAL SECURITY CODE*, 2020, Volume VIII IJLLR 2469, 2470 (2026).

The petitioner argued that the distinction created by the legislature between a woman who adopts a child aged less than three months and a woman adopting a child aged three months or above is artificial and violative of Article 14, by illustrating that if a woman adopts a child aged four months, she would not be entitled to maternity benefit as provided under the 2020 Code. Such an exclusion bears no rational nexus with the object of the 2020 Code and unjustly deprives a mother adopting a child aged three months or above. The age limit of three months could not be said to fulfil the bright-line test, as there is no reasonable distinction between adoptive mothers falling on either side of the three-month limit. Prescribing the maximum age of the adopted child at three months, Section 60(4) deprives all children above the age of three months from receiving the maternal care they need for their development and integration in their adoptive families, overlooking the physical and emotional well-being of the adoptive child aged three months or above as well as the adoptive parent.

The provision disregards the long-drawn procedure for the adoption of orphaned, abandoned, or surrendered children under the Juvenile Justice (Care and Protection of Children) Act, 2015 (the JJ Act) and the Adoption Regulations, 2022 (the CARA Regulations). The process for an orphaned, abandoned, or surrendered child to be “legally free for adoption” would take, at the very least, two months. Furthermore, to fulfil the residuary, the statutory procedure under the CARA Regulations would require an additional month. Thus, in view of such prescribed timeline, the provision would be rendered completely pointless, as in no case can the legal process of adoption be completed before the child. It further restricts a woman’s right to carry on her trade, occupation, and business guaranteed under Article 19(1)(g) of the Constitution based on the child’s age. Thus, the provision fails to ensure that more children are adopted and discourages women working in the organized or unorganized sector from considering adoption. The provision also violates the adoptive mothers’ and adoptive children’s right to life and dignity under Article 21 by denying the mother the right to a wholesome and holistic motherhood and the adoptive children the right to receive sufficient care to be rehabilitated and integrated into the new family.

The respondent argued that Section 60(4) of the 2020 Code should be read and interpreted along with the entire scheme of maternity benefit. the procedure of adoption is time-consuming is devoid of any merit. With a view to expedite the adoption process, district magistrates and additional district magistrates have been conferred with the power to issue adoption orders. In case an adoptive mother adopts a child aged more than three months, she can avail the creche facilities available at her establishment as per Section 67 of the 2020 Code. The prescription

of “a child below the age of three months” is reasonable as a child older than three months does not have the same intensive dependency on the caregiver in terms of continuous feedings, sleeping regulation assistance, and immediate parental imprinting to the same degree. Section 60(4) of the 2020 Code strikes a balance between the rights of adoptive mothers and the concerns of employers. He added that the provision satisfies the plausibility principle, ensures harmonious construction with other laws, and is consistent with international standards.

JUDGEMENT

On March 17, 2026, the Supreme Court declared Section 60(4) unconstitutional and violative of Articles 14 and 21. It held that the provision is discriminatory for women adopting children of the age of three months or above, lacking a rational nexus mentioned in the 2020 code, as any woman adopting a child a day above the specified age limit is ineligible for maternity leave. The court recognized that as far as caregiving responsibilities are concerned, all mothers, regardless of the age of the adoptive child, are in a similar situation of providing a nurturing and caring environment for smoother integration of the child into the family. By the time an orphaned, surrendered, or abandoned child is legally free for adoption, they might already have crossed the age limit mentioned in the provision, proving it to be impractical to avail any maternity benefits.

The Supreme Court held that maternity benefits are not limited to the biological process of childbirth but extend to the process of attaining motherhood and fulfilling the responsibilities flowing from it.⁴ The court identified three categories necessary for maternity leave: a) Physical recovery, b) Development of bonding between the child and the mother, and c) Child integration into the family. While physical recovery is absent in the case of an adoptive or a surrogate mother, the other two components cannot be sidelined. The age of a child does not change the emotional and economic support required for integration of a child into the family. The court held the provision was violative of the reproductive autonomy of a woman, prioritizing childbirth over the integration of the child into the family. The ruling recognizes the importance of the involvement of both parents in the early developmental stage of a child, shedding light on the importance of paternity leave. It recommends that the Union Cabinet make a statute recognizing paternity leave.

⁴ Anshul Prakash, Sukriti Shrivastava, *Supreme Court Strikes Down Provision Restricting Maternity Leave for Adoptive Mothers*, KHAITAN & CO., Mar. 27, 2026, <https://www.khaitanco.com/sites/default/files/2026-03/ERGO%20-%20Maternity%20Leave%20for%20Adoptive%20Mothers%20-%2027%20March%202026.pdf>.

The court held that sub-section (4) of Section 60 of the 2020 Code should now be meaningfully read as: *“A woman who legally adopts a child or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.”*

ANALYSIS

The ruling represents a significant advancement in maternity benefits for adoptive mothers by affirming the right to maternity leave for an adoptive or a commissioning mother for a period of twelve weeks, making it easier for mothers to prioritize the child’s well-being without having to compromise on childcare or professional advancement. It resolves the dilemma that women had over adoption that might lead to career or personal setbacks, recognizing the reproductive autonomy of adoptive mothers. The judgment acknowledges that while adoptive mothers might not go through the physical changes of a biological mother, it is vital for them to be present in the initial stages of their child’s life to fulfil holistic development. The court found that the provision was violative of the bright-line test as it lacked rationality because adoptive mothers of older children are similarly placed in terms of bonding and caregiving.

The twelve weeks exclude a class of adoptive mothers who require maternity leave for child integration and bonding. The recognition of paternity leave is a commendable initiative taken by the Supreme Court to ensure that the burden of nurturing the child is not solely on the woman and the father can be equally involved in the initial stages of the child’s life. In such circumstances, the provision of paternity leave and gender-neutral parental leave facilitates reducing the disproportionate burden on women employees in the workforce.⁵

CONCLUSION

By declaring Section 60(4) of the 2020 Code unconstitutional, the judgment holds great significance to the rights of an adoptive mother in the country. It not only recognises the rights of an adoptive mother of a child aged three months or above but also underscores the importance of initial maternal presence in the child’s life regardless of their age. It further proves that the erstwhile provision violated the proportionality test as it excluded a major class of adoptive mothers and hindered reproductive autonomy. The emphasis and recognition of gender-neutral parenting provisions is a significant approach towards easing the societal burden on women of childcare. While this is a remarkable step towards the recognition of the rights of

⁵ Khaitan & Co., *supra* note 4.

adoptive mothers, relieving the restrictions of the age limit, there is room for a larger conversation about multiple benefits and rights of adoptive mothers. Overall, this is progressive in nature as it provides maternity leave for adoptive mothers with wider legal representation, strengthening reproductive autonomy, and recognising the emotional and economic availability required for the holistic development of the child.