

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3041 OF 2018

Sonam w/o Vikas Narwade

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. C.R. Thorat advocate for the petitioner

Mr. P.K. Lakhotiya, AGP for Respondents

CORAM : R.M. BORDE & K.K. SONAWANE, JJ

(Date: April 2nd, 2018)

PER COURT :-

1 By this petition, the pregnant woman is seeking directions to undergo termination of pregnancy under the supervision of medical experts.

2 On consideration of sono-scan report tendered along with the petition, the petitioner mother was referred for medical examination by the Board of Experts consisting of Chairman, Professor & Head of the OBGY, Professor & Head of the Department of Pediatric, Professor & Head of the Department of Radiology, Associate Professor, Anesthesia, Head of the Department of Psychiatry, Neurologist and Medical

Superintendent, Government Medical College & Hospital, Aurangabad. The Medical Board has tendered report on 23.3.2018 through the Government pleader. According to the Medical Report, pregnancy carried by the petitioner is approximately of 23 weeks and four days on the date of examination. As on today, the pregnancy carried by the petitioner is of more than 24 weeks.

3 This Court in the Judgment delivered at Mumbai in the matter of **Shaikh Ayesha Khatoon versus Union of India** (Writ Petition St.No.36727/17 dated 9.1.2018) observed that apart from the circumstances laid down under section 5 of the Medical Termination of Pregnancy Act, 1971, permission to terminate pregnancy beyond 20 weeks can also be granted in the event of noticing circumstances enumerated in Clauses I & II of sub-section 2(B) of section 3 of the Act of 1971. The petitioner, in the instant petition claims that though there is no threat to the life of the pregnant woman, the circumstances enumerated in clauses I & II of sub-Section 2(B) of Section 3 are present in the matter and as such, the permission, as requested may be granted.

4 The Medical Report tendered by the Expert's committee,

however, does not support the contention of the petitioner. The opinion of the committee is as recorded below:-

“ Committee opinion:-

Based on above medical examination, conclusions of the committee are as follows.

1. On USG the average gestational age is 23 weeks 4 days.
2. These anomalies are not incompatible with life.
3. Person with this anomaly can have normal life, however the literature documented risk related to th is anomalies exist. ”

5 The committee, in clear terms reported that the anomalies are not incompatible with life and a person with these anomalies can have normal life. It must be noticed that the jurisdiction vested in the Court to permit termination of pregnancy on account of detection of deformities shall have to be exercised only in exceptional cases and the jurisdiction should be exercised sparingly. In the event of noticing any anomaly with which a person may live a normal life, permission may not be granted and if at all it is to be granted, shall have to be in adherence to the opinion of the experts committee.

6 In the instant matter as has been noticed above, the committee has not reported positive opinion in favour of termination of pregnancy. Apart from this, it must be noticed that the petitioner is carrying pregnancy of 25 weeks. At this stage, the development of fetus is almost complete and pregnant lady may expect normal delivery and that the risk involved in terminating the pregnancy at such advanced stage remains a matter of concern. In these circumstances, in view of the reasons recorded above, instant case is not worthy granting request of the petitioner. Petition is devoid of any substance and stands dismissed.

(K.K. SONAWANE, J)

(R.M. BORDE, J)