

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4864 OF 2018

XYZ AND ANOTHER

..PETITIONERS

VERSUS

THE UNION OF INDIA,
AND OTHERS

..RESPONDENTS

Advocate for Petitioners

...

: Mr. G. B. Kulkarni

AGP for State

: Mr. A.D. Namde

Central Government Standing Counsel
for Union of India

: Mr. A.G. Nagode

...

CORAM : MANGESH S. PATIL, J.
(VACATION COURT)

DATE : 21 MAY 2018

ORAL ORDER :

As per order dated 10th May 2018, the Medical Board at Government Hospital And Training Institute (GHATI) Aurangabad has submitted a report dated 14th May 2018 which has been opened by the learned A.G.P. Mr. A.D. Namde in the open Court. It is taken on record and marked as 'X' for the purpose of identification.

2] I have heard the learned Advocate for the petitioners, the learned A.G.P. Mr. A.D. Namde and Mr. A.G. Nagode, Standing Counsel for Union of India. They all have gone through the Expert Committee report (supra).

3] The expert committee comprising of five members has thoroughly examined petitioner No.1 and has noted the following findings :-

1. From general medical examination she has no active medical complaints.
2. On Obstetric examination her vital parameters are within normal limits with approximately 22 weeks of pregnancy.
3. On USG the average gestational age is 21 weeks, 6 days. There is presence of occipital encephalocele and enlarged echogenic bilateral kidneys possibility of Mekel-Grubler syndrome should be considered
Impression=single live intrauterine gestation of average gestational age 21 weeks 6 days with ??
Mekel-Grubler syndrome.
4. On psychiatric examination, she is having average intelligence and no active psychopathology at present.

4] In reply to the queries put to them in the order dated 10th May 2018 and based on the medical examination, it has opined as under :-

1. Termination of pregnancy is essential.
2. Risk of termination of pregnancy is within normal acceptable limits.
3. Pregnancy should be terminated as early as possible, with normal acceptable risk.

5] The Expert Committee of five members is comprising of Doctors from the Department of Obstetrics and Gynecology, Department of Radiology, Department of Paediatrics, Department of Psychiatry and

Department of Anaesthesia. The committee has specifically noted that termination of pregnancy is essential and risk of termination of pregnancy is within normal acceptable limits. It has further opined that the pregnancy should be terminated as early as possible.

6] In a similar fact and situation based on the report of the experts committee this Court in *Writ Petition No. 970 of 2018 "XYZ" Vs. The Union of India* by the order dated 25th January 2018 has permitted termination of pregnancy of 20 to 22 weeks. In some other matters as well this Court has intervened in a similar manner based on the facts and circumstances and recent judgment of Division Bench of this Court at Principal Seat in *Writ Petition (St) No. 36727 of 2017 Shaikh Ayesha Khatoon vs. Union of India and Others* decided on 09.01.2018 (Coram : R.M. Borde & R.G. Ketkar, JJ)

7] In my considered view, taking into the account the fact that abnormalities have been noted in the foetus aged 21 weeks and 6 days on 14th May 2018, as suggested by the Expert Committee, the petitioner No.1 deserves to be granted permission to terminate the pregnancy as early as possible. Hence the following order :-

ORDER

- (i) The petition is allowed.
- (ii) The petitioner No.1 is permitted to undergo medical termination of pregnancy in the Government Medical

College and Hospital (GHATI Hospital) Aurangabad immediately.

- (iii) The learned Advocate for the petitioners on instructions undertakes that she would remain present before the Doctor in the Hospital latest by tomorrow.
- (iv) The Dean of the Government Medical College and Hospital Aurangabad (GHATI) shall make necessary arrangements for immediate termination of pregnancy.
- (v) It is clarified that Doctors who have given opinion as Members of the expert committee shall not incur any liability of whatsoever nature on account of consequences of termination of pregnancy.
- (vi) Rule is made absolute in above terms.

Parties to act upon authenticated copy of this order.

(MANGESH S. PATIL)
JUDGE

YSK/