

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4738 OF 2018

Reshma Govind Sahu

...Petitioner

vs.

Union of India and Others

...Respondents

Ms. Minaz Kakalia i/b. Kranti L.C. for the Petitioner.

Mr. S.V. Bharucha a/w. Mr. D.H. Shah and Mr. A.A. Ansari, for
Respondent Nos. 1 and 3.

Mr. Sandeep Babar, AGP for the Respondent No. 2-State.

**CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.**

DATE : APRIL 20, 2018

P.C.:

. The Petitioner has approached this Court seeking direction against the Respondents to allow her to get her pregnancy terminated. The Petitioner has stated that her pregnancy has gone beyond the permissible limit of 20 weeks within which the pregnancy can be terminated under the Medical Termination of Pregnancy Act, 1971.

2. In view of various orders passed by the Supreme Court and thereafter by this Court from time to time, we had constituted a Committee of expert Doctors from Sir JJ Group of Hospitals, Mumbai vide order dated 16th April, 2018 to examine the Petitioner

and give its opinion. The Petitioner had appeared before the said constituted Committee of experts/Medical Board. The Medical Board after examining the Petitioner noticed as under:

“Mrs. Reshma is 25 week pregnant with Abnormal fetus, as per Neuroimaging fetus has complete agencies of corpus callosum with colpocephaly with dilated ventricles and paucity of white matter. This fetus after birth has high possibility of having visual defects, seizures, intellectual impairment, hydrocephalus, cerebral palsy. Hence, Medical Termination of Pregnancy is advisable”

3. After going into the opinion of various experts including the aforesaid report, the Medical Board consisting of Dr. Ashok Anand, Dr. Shilpa Domkundwar, Dr. V.P. Kale, Dr. Bela Varma, Dr. Kamlesh Jagyasi, Dr. R.D. Kulkarni and Dr. N.O. Bansal has given its opinion which reads thus:

“The Committee after examination and careful study of multiple sonography reports, has confirmed that the fetus has a neurological abnormality, in the form of complete corpus callosal agencies with colopocephaly. After birth baby may have high possibility of visual defects, seizures, intellectual impairment, hydrocephalus, cerebral palsy.

The condition of fetus fulfil the criteria of “substantial risk of serious physical handicap” which is non compatible with normal life. The pregnancy has advanced upto 26 weeks and is beyond 20 weeks cut off of medical termination of pregnancy act. Hence, she has approached the Hon’ble Court for termination of pregnancy.

If the Court permits pregnancy can be terminated as desired by pregnant woman. The risk of termination of pregnancy is not going to be more than that of normal labour.”

4. We have gone through the said opinion which includes opinion of the various expert doctors including Dr. Ashok Anand, Professor & Head, Department of Obstetrics & Gynaecology, Dr. V.P. Kale, Prof. & Head, Dept. of Psychiatry, Dr. Shilpa Domkundwar, Prof. & Head, Dept. of Radiology, Dr. Bela Varma, Prof. & Head, Dept. of Paediatrics, Dr. D.R. Kulkarni, Prof. & Head, Dept. of Pediatric Surgry, Dr. Kamlesh Jagyasi, Prof. & Head, Dept. of Neurology and Dr. N.O. Bansal, Prof. & Head, Dept. of Cardiology of Sir J.J. Group of Hospital, Mumbai. It appears that the Committee has reached the conclusion that there would be substantial risk of serious physical handicap.

5. Having regard to the aforesaid, it is very difficult for us to refuse permission to the Petitioner to undergo the medical termination of the pregnancy. It is certain that if the Petitioner is allowed to give birth to fetus, there is substantial risk of serious physical handicap.

6. In view of the above peculiar circumstances and having due regard to the fundamental right conferred on the Petitioner under Article 21 of the Constitution of India to live life of dignity, it will be appropriate and in the interest of justice to permit the Petitioner to undergo the medical termination of pregnancy under the provisions of the Medical Termination of Pregnancy Act, 1971. Such fundamental right as conferred on the Petitioner would not allow her to lead and live a life of misery.

7. The learned AGP as also the learned counsel for the Union of India have not opposed the petitioner's prayer on any ground, legal or medical. We order accordingly.

8. We further direct that the termination of the Petitioner's pregnancy to be performed within **four days** by the expert doctors of Sir J.J. Group of Hospital, Mumbai where she has to undergo medical check up.

9. The termination of the pregnancy will be supervised by the Committee/Medical Board constituted by this court which shall maintain the complete report of the procedure which would

be performed on the Petitioner at the time of termination of the pregnancy.

10. We also make it clear that in the event of any problem in connection with the medical termination of the pregnancy, the doctors of the Medical Board shall have immunity in law.

11. Petitioner shall bear the cost of the operation and other expenses.

12. With the aforesaid directions, Petition is disposed of.

13. Parties to act on authenticated copy of this order.

(MAKARAND KARNIK, J.)

(SHANTANU KEMKAR, J.)