

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.14261 OF 2018

Savita Ravi Garud, Through her
mother and natural guardian

Sunita Ravi Garud

.. Petitioner

Vs.

Union of India & Anr.

.. Respondents

Ms.Meenaz Kakalia for the petitioner.

Ms.Purnima Awasthi with Mr.Anand Singh for the respondent nos.1 and 3.

Mr.Sandip Babar AGP for the State.

Mr.G.S.Godbole with Ms.Vidya Gharpure, Sharmila Modale, Madhuri More
for the Corporation.

Dr.Vidya Thakur, Dr.Meena Savjam, Dr. Hemangi Worke, Dr.Gaurav Desai,
Dr.Durga Valvi, KEM Hospital present in Court.

Mrs.Sunit R. Garud, mother of the petitioner present in the Court.

CORAM : A.K. MENON &

SMT.BHARATI H. DANGRE, JJ.

(VACATION COURT)

DATED : 9TH MAY, 2018.

P.C. :

1. Heard. The respondents waive service. By consent of the parties the petition is taken up for final hearing.
2. By this petition, the petitioner, through her mother and natural legal guardian seeks permission to medically terminate the pregnancy which has passed the 20 weeks contemplated in the Medical

Termination of Pregnancy Act, 1971 (Act). The petitioner is presently stated to be of 16 years of age and a victim of sexual assault and rape. It is stated that the petitioner has suffered immense mental and physical anguish as a result and seeks directions of the Court to allow her terminate her pregnancy to protect her health.

3. On 4th May, 2018 a Division Bench of this Court constituted a Committee of Experts to form a Medical Board at Rajawadi Hospital under the Dean and experts in the field of Gynecology, Neurology, Paediatrics, Psychology, Radiology and other experts to examine the petitioner and give its opinion whether it would be safe to terminate pregnancy of the petitioner. The Dean Rajawadi Hospital has pursuant to the order passed by this Court on 4th May, 2018 constituted a Board consisting of eight doctors Dr.Vidya V. Thakur, Dr.Sumedha Tiwari, Dr.Kiran Mhatre, Dr.Kanchan Chaudhari, Dr.Prakash Trivedi, Dr.Soumil Trivedi, Dr.Manish Doshi and Dr.Maya Wankhede.
4. The Board has since submitted a report dated 7th May, 2018 whereby the general medical condition of patient has been found to be conducive to carry out the procedure. She is able to go through the procedure of medical termination. The examination included General medical examination as also examination by Radiologist, Psychiatrist, Gynecologist, Pediatrician and Anesthetist. The opinion is taken on

record and marked "X" for identification. The opinion of the doctors and conclusions reached by the Panel of doctors are as follows :

1. Current pregnancy is about 25 weeks by clinical and Sonographic evaluation.

2. In our opinion of board, considering the age of the patient (16 years) continuation of pregnancy (24.1 weeks) can lead to complications including mortality and is detrimental to the overall health of the patient.

3. The mental trauma of child birth will be the same regardless of whether the pregnancy is continued but the guilt of the abandoning a fully grown neonate will be additional in case of continuation of pregnancy.

5. On 7th May, 2018 when this matter was listed before us, the petitioner's mother seemed hesitant at one stage and was unsure as to whether or not pregnancy is to be terminated. However, after consulting the panel of doctors and given the opinion that continuation of pregnancy can lead to complications including mortality and is detrimental to the overall health of the patient, she has since expressed the desire to proceed with termination of pregnancy. We have also interacted with the mother of victim during the course of hearing and she has stated that her hesitation

was only caused due to different reactions of other family members. However, she is today firmly of the opinion that the pregnancy is required to be terminated. The Board is clearly of the view that pregnancy can be terminated as per patient and family members' request.

6. Today, at the hearing Mr. Godbole, learned counsel appearing on behalf of respondent no.4-corporation, which manages the Rajawadi Hospital has stated that the investigation has also revealed that the consequences of the procedure could be that the foetus may not survive. It is further submitted on behalf of the corporation that rather than the procedure being carried out at Rajawadi Hospital, Ghatkopar it would be appropriate that procedure is conducted at K.E.M. Hospital, Parel, in view of the fact that K.E.M. Hospital has much better facilities including those that may be required in the event of any emergency. In addition, it is submitted that the team of doctors at K.E.M. Hospital is much larger and more accessible in case of emergency when compared to the Rajawadi Hospital.
7. In the circumstances, having considered all facts and in particular the fact that the petitioner is of a tender age of 16 years and likelihood of mental and physical anguish and trauma she continues to go through and her

fundamental right under Article 21 of the Constitution of India to live a life with dignity and in the light of the opinion that continuation of the pregnancy at this tender age of 16 years may lead to maternal mortality, it is appropriate that this Court permits medical termination of pregnancy. In this behalf this Court has in Writ Petition 13228 of 2017 passed a similar order following the decision of the Supreme Court in cases of Murugan Nayakkar Vs. Union of India Writ Petition (Civil) No.749 of 2017.

8. In the circumstances, we allow the petitioner to medically terminate her pregnancy. Considering the fact that time is of essence and any further delay would increase the risk to the petitioner, the Corporation will ensure that the petitioner is transferred from Rajawadi Hospital to K.E.M. Hospital at the earliest possible opportunity and preferably by the end of day today i.e. 9th May, 2018 so that K.E.M. Hospital could conduct all preliminary and precautionary tests required as is done in any normal case of medical termination of pregnancy.
9. The entire team of doctors comprising the Board of Rajawadi Hospital shall be available for consultation with the team at K.E.M. Hospital. In conclusion, we make it clear that all necessary precaution be followed in terms of the Act and Rules framed thereunder and shall be observed by the K.E.M. Hospital. The Dean of K.E.M. Hospital shall

ensure that all necessary arrangements are made forthwith to avoid any procedure delay for commencement which in any case should commence preferably tomorrow i.e. by 10th May, 2018.

10. The Law Officer, Municipal Corporation shall also inform the hospitals in question about this order to ensure timely compliance.

11. All concerned to act on an authenticated copy of this order. Meanwhile Mr. Godbole states that he will ensure that all necessary action will be taken by the hospitals concerned, without awaiting an authenticated copy of this order.

12. The petition is allowed in the aforesaid terms and is disposed off accordingly.

13. The Report dated 7th May, 2018 shall be retained in the Registry in a sealed cover.

(SMT. BHARATI. H. DANGRE, J.)

(A.K. MENON, J.)