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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10584 OF 2018

“XYZ”

... Petitioner.

V/s.

Union of India,

Through the Secretary, Ministry of Law
and Justice, Delhi and Ors.

... Respondents.

Ms. Meenaz Kakalia for the Petitioner.

Mr. A.R. Varma a/w Mr. Anand Singh for the Respondent No.1.

Mr. Y.S. Khochare, AGP for the Respondent No.2.

CORAM : A.S.OKA AND M.S. SONAK, JJ.

DATE : 24th SEPTEMBER 2018.

P.C. :

1 Heard the learned counsel appearing for the petitioner. The order dated 18th September 2018 passed by this Bench reads thus :-

“ Not on board. Taken on board.

1. Heard the learned counsel for the petitioner. The petitioner is in 24th week of pregnancy. The petitioner is relying upon the reports which are at Exhibit-A and Exhibit-B. According to the reports, the foetus suffers from congenital cardiac anomalies. Therefore, the petitioner is claiming declaration that she is entitled to undergo medical termination of pregnancy.

2. Accordingly, we pass the following order :

- (i) We direct the Dean of Sasoon General Hospital and B.J. Government Medical College, Pune to constitute a Medical Board of the experts in various fields for examination of the petitioner;
- (ii) The petitioner will report to the office of the Dean of Sasoon General Hospital and B.J. Government Medical College, Pune tomorrow 19th September at 3.00 p.m.;
- (iii) Considering the advanced stage of pregnancy, it will be appropriate if the Medical Board will submit a report on Friday 21st September 2018 at 3.00 p.m through the Office of the Government Pleader ;
- (iv) We direct that the name of the petitioner shall be masked and shall be printed as “XYZ”;
- (v) All concerned to act upon an authenticated copy of this order;
- (vi) S.O. till 21st September 2018 at 3.00 pm.”

2 In terms of the said order, the Dean of the B.J. Medical College and Government Medical College, Pune constituted a Medical Board of 7 Doctors working in the same College and Hospital consisting of himself, Professor and Head of the Department of Gynecology, Professor of Medicine, Professor and Head of the Department of Radiodiagnosis, Associate Professor of Department of Paediatrics, Associate Professor of the Psychiatry and Associate Professor of Cardiovascular Surgery. There is a detailed report submitted by the Medical Board. The detailed report incorporates separate opinions expressed by the members of the Medical Board.

3 In the report, it is observed that the petitioner is pregnant 27 weeks and sonography has confirmed gestational age. The head of the Department of Gynecology has expressed the following opinion:-

“This is a pregnancy of 26-28 weeks with a child having a serious congenital heart lesion.

The risks of termination of pregnancy at this advanced gestation are significant including bleeding, uterine rupture, embolism, failure of induction, need for caesarean, sepsis, postpartum breast abscess and death etc.

Also the baby born at this gestation is likely to survive for some time requiring NICU care and may die subsequently.

Considering the risks in termination in this woman at advanced gestation with previous caesarean section, pregnancy termination it is NOT advised.”

(underline supplied)

4 The ultimate report of the Board reads thus :-

“The committee examined the girl XYZ (10548/2018) on 19/09/2018 and necessary investigations were done. Clinical examination and investigations reveal that the pregnancy is advanced [27-28 weeks] and carries a significant risk in termination. Also, the baby if born may be alive and will have high morbidity and mortality.

The committee feels that the pregnancy should not be terminated at this advanced gestational age.”

(underline supplied)

5 Today, the learned counsel appearing for the petitioner tried to argue that the opinion submitted by the Medical Board is not complete. She submitted that the Medical Board has not considered the risk involved by continuing the pregnancy. When we made a query whether the petitioner desires to challenge the report of the Medical Board, she answered in the negative. As stated earlier, the Medical Board consists of 7 senior Doctors attached to B.J. Government Medical College and Sasoon General Hospital, Pune. It is obvious that the Medical Board must have considered the aspect of risk involved in continuing the pregnancy. In fact, the Medical Board constituted by the same Hospital and Medical College consisting of some of the Doctors who are part of the Medical Board constituted in this case, in some other cases, have recommended medical termination of pregnancy post-20 weeks of pregnancy.

6 We have no manner of doubt that the Board of 7 Doctors after considering all the relevant aspects has come to a conclusion that there is a risk involved in terminating the pregnancy of the petitioner in advanced gestational age.

7 Considering the opinion of the Medical Board, we are unable to grant any relief in this petition under Article 226 of the Constitution of India. Hence, we reject the petition.

(M.S. SONAK, J.)

(A.S.OKA, J.)