

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10149 OF 2019**

Sow. Soni W/o Santoshkumar Kundanani
Age: 32 years, Occu: Household,
R/o Om Sai Niwal,
Behind Balvidya mandir Primary School,
Nanalpeth, Parbhani.
Tq. and Dist. Parbhani ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Principal Secretary,
Public Health Services
Mantralaya, Mumbai-32.
2. Government Medical Hospital and College
Aurangabad through
Its Dean. ..RESPONDENTS

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Mr. Avinash S. Londhe, Advocates for the Appellant.
Mr. S. G. Karlekar, Advocate for Respondent-State.

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**CORAM : S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.**

Closed for Orders on : 03.09.2019.

Order Pronounced on : .09.2019.

FINAL ORDER (Per S. V. Gangapurwala, J.) :-

1. The petitioner seeks permission to terminate the pregnancy. The length of pregnancy as on date would be more than 23 weeks.

2. We had directed the petitioner to be examined by the board / committee constituted by the Dean, Government Medical College and Hospital, Aurangabad. The petitioner was examined by the committee. On 19.08.2019, the report is submitted

by the committee. The committee opined that the child born would have developmental anomalies namely Arthrogryposis Multiplex Congenita and Bilateral Talipes Deformity.

3. The committee has further opined that these anomalies are surgically correctable and may have residual deformity even after surgical correction. The child may need crutches, braces or walker or may be able to walk without these devices according to severity which can be assessed only after birth of baby.

4. It is also submitted that the financial condition of the petitioner is not very sound.

5. Section 3 of the Medical Termination of Pregnancy Act, 1971 more particularly sub Section 2 reads thus :

(2) Subject to the provisions of subsection (4), a pregnancy may be terminated by a registered medical practitioner,-

(a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, of not less than two registered medical practitioners are, of opinion, formed in good faith, that-

(i) the continuance of the pregnancy

would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation 1. Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2. Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

6. It appears from the report that there is substantial risk that if the child when born, it would suffer from physical abnormality as to be seriously handicap.

7. The report read in its entirety, it is clear that if the child is born, the child will be

born with deformity which would require surgery and even after surgery the same may not be completely cured. The deformity may remain even after surgical corrections. The report unequivocally suggest that the child would be seriously physically handicap.

8. Considering the environment of the petitioner, the substantial physical handicap that the child would be born with, it would be appropriate to allow the petitioner to terminate her pregnancy.

9. The learned Counsel for the petitioner submits that the petitioner has been intimated about the risk involved and the petitioner seeks permission to terminate pregnancy.

10. In light of the above, the petitioner is allowed to terminate pregnancy at a registered and recognized hospital.

11. Writ Petition is disposed of. No costs.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE