

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

WRIT PETITION NO. 7295 OF 2019

Shital Pandurang Patil ... Petitioner.

V/s.

State of Maharashtra ... Respondent.
(through the Principal Secretary,
Public Health Services, Mantralaya, Mumbai-23.)

Ms. Afreen Khan, Advocate for the Petitioner.
Dr. Mrs. K.R. Kulkarni, AGP for the Respondent - State.

CORAM : R.M. BORDE & N.J. JAMADAR, JJ.

DATE : JULY 17, 2019.

PC :

1 Not on the board. Mentioned. Taken on production board in view of an urgency pointed out by the learned counsel for the petitioner.

2 Earlier, instant writ petition was listed before this court for consideration on 10th July, 2019; however, at the request of the learned counsel appearing for the Petitioner, the same came to be adjourned for facilitating the Petitioner to place on record the undertaking signed by the Petitioner to the effect that if

the child is born alive, the Petitioner would take care of the child.

3 Today, the Petitioner has tendered an undertaking signed by her. The Petitioner is identified by the counsel appearing for her. The undertaking is taken on record and marked as "X" for identification.

4 We have perused the report of the Medical Board, tendered on 3rd July, 2019. The Medical Board on examination of the Petitioner and after conducting essential investigation/ tests, has opined that the pregnancy of the Petitioner is of 26 weeks duration and the baby has fatal complex cardiac anomaly. The Medical Board has further opined that the baby will have high morbidity and mortality and the Committee feels that pregnancy should be terminated at this gestational age with permission of the High Court.

5 Considering the opinion expressed by the Medical Board and in view of the decision rendered by this court in the matter of Shaikh Ayesha Khatoon vs. Union of India in writ petition (st.) no. 36727 of 2017, decided on 09th January, 2018, and the decision in the matter of XYZ vs. Union of India, in writ petition no. 10835 of 2018, decided on 03rd April, 2019, the request

made by the Petitioner deserves to be considered favourably.

6 The Petitioner shall be permitted to undergo procedure of medical termination of pregnancy at Rajashree Chhatrapati Shahu Maharaj Government Medical College and CPR Hospital, Kolhapur. The concerned hospital shall conduct the procedure of medical termination of pregnancy under supervision of experts Gynecologist and Pediatrician.

7 The Petitioner undertakes to report to the Hospital at Kolhapur within three days from today for carrying out the procedure of medical termination of pregnancy.

8 It is clarified, at this stage, that the Petitioner has been sensitized by the Medical Board about risk factor involved in termination of the pregnancy and it would be open for the Petitioner to terminate the pregnancy at her own risk and consequences. It is further made clear that the Medical Board will have immunity in the event of any litigation at the instance of the Petitioner. The Petitioner has already tendered undertaking to this court that in the event, the child is

born alive, the Petitioner would take responsibility of the child. The undertaking tendered on record is accepted.

9 In light of the directions, as recorded above, the writ petition is disposed of.

(N.J. JAMADAR, J.)

(R.M. BORDE,J.)

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