

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

WRIT PETITION NO. 8461 OF 2019

Poorva alias Purva Rajesh Shigvan
& Anr.

... Petitioners.

V/s.

Union of India & Ors.

... Respondents.

Mr. Prosper D'Souza, Advocate, for the Petitioners.
Ms. Kavita N. Solunke, AGP for the - State.

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

DATE : AUGUST 07, 2019.

PC :

1 Not on Board. Mentioned. Taken on
production board in view of urgency.

2 With the consent of the parties, the petition
is taken for final disposal at the admission stage.

3 The Petitioner, who is a pregnant woman,
has approached this court, seeking permission to
terminate the pregnancy, which is stated to be around
21 weeks duration. Considering the report of the
Sonologist annexed alongwith the petition dated
23.07.2019, the Petitioner was directed to appear

before the Medical Board, constituted at the Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai. The Petitioner appeared before the Medical Board on 5th August, 2019 and she was examined by the committee of the Medical Board, consisting of Professor & HOD of Obstetrics & Gynaecology, Professor & HOD of Radiology, Professor & HOD of Paediatrics and Professor & HOD of Neurosurgery. The Committee has recorded opinion in the report dated 05.08.2019, which reads as under :

“Upon examination & after careful study of multiple sonography reports, it is confirmed that the fetus suffers from serious physical condition “SPINA BIFIDA AND LUMBOSACRAL MENINGOMYELCOELE”.

The condition of the fetus fulfills the criteria of “SUBSTANTIAL RISK OF SERIOUS PHYSICAL HANDICAP”.

The woman has been explained about the outcome in the language she understands.

The pregnant woman has voluntarily expressed her desire to terminate the pregnancy and is well informed about the nature of the condition of fetus and its outcome. She is anguished with the condition of the fetus in utero. As the child born with may have morbid life with multiple operative interventions with very high morbidity and mortality.

The pregnancy has advanced to 20 weeks, 4 days and is beyond 20 weeks cut off of the Medical Termination Of Pregnancy Act.

Hence she has approached Honourable Court for termination of pregnancy.

Thus if the court permits, the pregnancy can be terminated at any tertiary care hospital as desired by the woman.”

4 Considering the opinion tendered on record by the Committee of the Medical Board of Grant of Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai and in view of the judgments delivered by this court in the case of Shaikh Ayesha Khatoon vs. Union of India & Ors. in writ petition no 36727 of 2017 decided on 9th January, 2018 and in the case of XYZ vs. Union of India & Ors, in writ petition no. 10835 of 2018, decided on 3rd April, 2019, according to us, this is a fit case for permitting the petitioner to terminate the pregnancy. It is specifically reported by Committee that there is substantial risk involved if the child were to born, he would suffer from such physical or mental abnormalities as to be seriously handicapped.

5 The Petitioner is informed about the risk involved in terminating the pregnancy at a gestational age of 21 weeks’, however, the Petitioner has specifically consented and informed to the board that she is desirous of terminating the pregnancy in view of the deformity in fetus, as stated in the report of the medical board. In view of the report tendered by the

Medical Board, the request made by the Petitioner deserves to be accepted.

6 In view of the reasons, recorded above, the writ petition deserves to be allowed and it is allowed accordingly.

7 It would be open for the Petitioner to medically terminate the pregnancy at the Sir J. J. Group of Hospitals at Mumbai. The concerned Hospital is directed to complete the procedure on admission of the Petitioner at the said Hospital as expeditiously as possible. The procedure of medical termination of pregnancy shall be conducted in the presence of the expert in Gynecology and Paediatrics.

8 The Petition is disposed of accordingly.

(N.J. JAMADAR, J.)

(R.M. BORDE,J.)

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