

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9797 OF 2019

Hetal Mitul Doshi

.. Petitioner

Versus

State of Maharashtra

.. Respondent

-
- Ms. Aditi Saxena for the Petitioner
 - Ms. Kavita Solunke, AGP for the Respondent - State
-

CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : SEPTEMBER 16, 2019.

P.C.:

1. Pursuant to the order dated 9.9.2019, the Dean of the Sir J.J. Group of Hospitals, Mumbai constituted a Medical Board comprising of the following doctors:-

1. Dr. Ashok Anand, Professor & Head, Dept. of Obstetrics and Gynecology, Grant Government Medical College and Sir J.J. Group of Hospitals, Mumbai.
2. Dr. V.P. Kale, Professor & Head, Dept. of Psychiatry, Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai.
3. Dr. Varsha Rathi, Professor, Dept. of Radiology, Sir J.J. Group of Hospitals, Mumbai.
4. Dr. Nita Sutay, Professor & Head, Dept. of Pediatrics, Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai.

5. Dr. N.O. Bansal, Professor and Head, Dept. of Cardiology, Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai.
6. Dr. Hemangi Athawale, Assistant Professor, Dept. of Paediatrics surgery, Grant Government Medical College and Sir J.J. Group of Hospitals, Mumbai.
7. Dr. Manoj Joshi, Associate Professir & HOD, Dept. of C.V.T.S., Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai

2. The Board has today submitted its report to this Court.

We have gone through the report and the opinion of the Board, which is reproduced hereunder:-

“UPON EXAMINATION & AFTER CAREFUL STUDY OF MULTIPLE SONOGRAPHY REPORTS, IT IS CONFIRMED THAT THE FETUS SUFFERS FROM COMPLEX CARDIAC ANOMALIES IN FORM OF **SINGLE VENTRICLE WITH LARGE INLET VSD, THE CONDITION SIGNIFICANTLY WITH MORBIDITY AND MORTALITY.**

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 INTERVATIONS WITH VERY HIGH MORBIDITY AND MORTALITY.**

THE PREGNANCY HAS ADVANCED TO 25 WEEKS, 2 DAYS AND IS BEYOND 20 WEEKS CUT OF THE MEDICAL INTERMISSION 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 HOSPITAL AS DESIRED BY THE WOMAN. THE HON. HIGH COURT IS HOWEVER, REQUESTED TO INSTRUCT THE PARENTS TO BEAR RESPONSIBILITY OF THE CHILD AND THE REQUIRED NEONATAL MANAGEMENT IF BORN ALIVE.”

3. In view thereof, the Writ Petition which is taken up for final hearing is allowed. The petitioner is permitted to undergo medical termination of pregnancy at her own risk in Ashwini Surgical Hospital, Ghatkopar. The costs of medical termination of pregnancy shall be borne by the petitioner and her husband. It is clarified that the Petitioner shall undergo the procedure for medical termination of pregnancy at her own risk.

4. The petitioner and her husband shall undertake to bear the responsibility of the child and the required neonatal management if born alive. The said undertaking is to be filed by tomorrow i.e 17.9.2019

5. It is further made clear that the doctors, who have put their opinions on record, shall have the immunity in the event of occurrence of any litigation arising out of the instant petition.

6. Writ Petition is disposed of in above terms. There shall be no order as to costs.

7. All concerned shall act on an ordinary copy of this order duly authenticated by Associate / Private Secretary of this Court.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]