

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9878 OF 2019

Sarika Pramod Jadhav

.. Petitioner

Versus

State of Maharashtra

.. Respondent

-
- Ms. Bhavna Mhatre 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 6.9.2019, 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. Shilpa Domkundwar, Professor and Head, 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.

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 **COMPLEX HEART DISEASE WITH UNIVENTRICULAR PHYSIOLOGY (TO BE CONFIRMED AFTER BIRTH). IN VIEW OF COMPLEX CONGENITAL HEART DISEASE, HIGH CHANCES OF FOETAL WASTAGE AND FOETUS AFTER BIRTH IS LIKELY TO HAVE STORMY COURSE IN FIRST YEAR OF LIFE WITH ASSOCIATED RISK OF 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 23 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 CARE 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 Kaushal Hospital, Flat No. 105, Pimpri, Pune - 17 which is approved by the Medical Department, Pimpri-Chinchwad Mahangarpalika. 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. 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.

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

6. Copy of this order shall be forwarded to Kaushal Hospital, Flat No. 105, Pimpri, Pune - 17.

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]