

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10804 OF 2019

Rama Manikrao Dhiwar @ Pagare .. Petitioner

Versus

State of Maharashtra & Anr. .. Respondents

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- Ms. A Rastogi i/by Ms. Mani Prakash for the Petitioner
 - Mr. A.P. Vanarse, AGP for Respondent No. 1
 - Ms. Purnima Awasthi for Respondent No. 2 - UOI
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : OCTOBER 11, 2019.

P.C.:

1. Pursuant to our order dated 9.10.2019, the Dean of the Sir J.J. Group of Hospitals, Mumbai has 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, Dept. of Radiology, Sir J.J. Group of Hospitals, Mumbai.
4. Dr. Vernan Velho, Professor and Head, Dept. of Neurosurgery, Sir J.J. Group of Hospitals, Mumbai.
5. Dr. Nita Sutay, Professor & Head, Dept. of Pediatrics, Grant

- Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai.
6. Dr. Kamlesh Jagyashi, Professor & Head, Dept. of Neurology, Grant Government Medical College and Sir J.J. Group of Hospitals, Mumbai.
 7. Dr. N.O. Bansal, Professor and Head, Dept. of Cardiology, Grant Govt. Medical College & Sir J.J. Group of Hospitals, Mumbai.
 8. Dr. Hemangi Athawale, Assistant Professor, Dept. of Paediatrics surgery, Sir J.J. Group of Hospitals, Mumbai.

2. The Board has submitted its report to this Court today. 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 SERIOUS NEUROLOGICAL ABNORMALITY IN THE FORM OF **GROSS DILATATION OF BILATERAL LATERAL VENTRICLE – SEVERE VETERICULOMEGALY.**

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.

HENCE IT IS ADVISABLE TO TERMINATE THE PREGNANCY.

THE PREGNANCY HAS ADVANCED TO 23 WEEKS, 1 DAY 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 LEVEL HEALTH CARE INSTITUTION.”

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 at L.T.M.G. Hospital, Sion, Mumbai. 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. 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]