

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14546 OF 2018

Ashwini Suhas Machava ... Petitioner

Versus

Union of India and Ors. ... Respondents

Ms. Meenaz Kakalia for the Petitioner.

Ms. Shruti Vyas, "B" Panel for R. No. 1 and 3.

Mr. B.V. Samant, AGP for R. No. 2.

Ms. Sheetal Mane for BMC.

**CORAM : B.P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.**

DATE : JANUARY 03, 2019

P.C.:

Heard respective counsel for the parties. Perused the orders of this court dated 20/12/2018 and 01/01/2019.

2. The report of the Committee received in a sealed envelope was made available for perusal of the respective counsel. The same is taken on record as Exh. "X".

3. Petitioner adult seeks leave to terminate because of the alleged abnormality in the foetus. The opinion of the experts is as under :

“AFTER CAREFUL EXAMINATION OF PATIENT AND STUDY OF THE ULTRASONOGRAPHY REPORTS, COMMITTEE FEELS THAT THE FETUS HAS CLEFT LIP AND CLEFT PALATAE AND ALSO ABNORMAL MOSAIC LOSS OR CHR 4 LOSS AND Y CHROMOSOME.

THIS CONDITION IS COMPATIBLE WITH LIFE AND BABY BORN AFTER THE BIRTH CAN BE NORMAL AND CLEFT LIP AND PALATE CAN BE SURGICALLY CORRECTED.

THE CONDITION OF THE FETUS DOES NOT FULFILLS THE CRITERIA OF “SUBSTANTIAL RISK OF SERIOUS PHYSICAL HANDICAP” WITH THE POSSIBILITY OF DEVELOPMENTAL DELAY AND INTELLECTUAL ABNORMALITY.

SINCE THE PREGNANCY IS ADVANCED TO 24 WEEKS WELL BEYOND THE LEGAL LIMITS OF TERMINATION OF PREGNANCY, THE COMMITTEE LEAVE IT TO THE DISCRETION OF HONOURABLE HIGH COURT FOR PERMISSION OF TERMINATION OF PREGNANCY.

Sd/-

Dr. Ashok Anand
Professor & Head
Dept. of OBGY,
CGMC, Mumbai
Chairman

Sd/-

Dr. V.P. Kale
Professor & Head
Dept of Psychiatry
CGMC, Mumbai
Member

Sd/-

Dr. Dhilpa Domkundwar
Professor & Head
Dept of Radiology,
CGMC, Mumbai
Member

Sd/-

Dr.N.O. Bansal
Professor & HOD
Dept of Cardiology
CGMC, Mumbai
Member

Sd/-

Dr. Kamlesh Jagiasi
Asso.Professor & Head,

Dept of Neurology

CGMC, Mumbai

Member

Dept of Pediatrics

CGMC, Mumbai

Member

Dept of Pediatrics Surgery

CGMC, Mumbai.

Member -

Sd/-

Dr. Bela Varma,
Professor & Head

Sd/-

Dr. D.R. Kulkarni,
Professor & Head

4. In view of the findings of the Experts that the condition is compatible with life and baby born can be normal human being and the cleft lip and cleft palate can be treated surgically, we are not inclined to grant the permission. Petition is rejected.

(REVATI MOHITE DERE, J.) (B.P. DHARMADHIKARI, J.)