

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.187 OF 2019

Shanaz Khan

...Petitioner

vs.

Union of India and Anr.

...Respondents

Mr. D.B. Deshmukh a/w Mr. Namit Loya for the Petitioner.

Ms. Uma Palsuledesai, AGP for the Respondent-State.

Ms. Purnima Awasthi for the Respondent No.1.

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

DATE : 29/01/2019.

P.C.:

. Daughter aged about 16 years of the petitioner is about 24 weeks pregnant. Mother has approached this Court on 22/1/2019 seeking leave to terminate that pregnancy. Accordingly, the matter was placed before the Expert of GGMC Mumbai. The Committee consisting of 6 experts has submitted its report today. We have perused that report and also permitted the petitioner to go through it. The opinion of the Committee is reproduced by us below for ready reference :

“ After taking history, careful examination, ultrasonography examination and psychaiatric evaluation, the Committee has come to the opinion that the fetus has bilateral pyelectasis and elongated towering bladder suggestive of distal obstruction.

This condition of fetus is treatable post delivery and also can be treated even in utero in same centres.

This condition of fetus does not fulfill in the criteria of substantial risk.

Pregnancy is already advanced to more than 24 weeks. Hence it would be advisable to continue the pregnancy till term. After delivery, the baby can be treated.

Pregnant woman is minor (16 years). Termination of pregnancy also carries risk to the mother. Hence Committee feels that at this advanced stage of pregnancy, it would be advisable to continue the pregnancy.”

2. Forwarding letter and report of the Committee is taken on record and marked as "A".

3. Learned counsel for the petitioner urged that ingredients of section 3(ii) Explanation (i) read with section 5 of MTP Act 1971 are satisfied in the present matter. Learned AGP on the other hand relied upon Explanation 1 supra and also expressed risk to mother herself to urge that appropriate informed decision needs to be taken.

4. Portion reproduced supra shows that minor is aged about 16 years and pregnancy is at advance stage of 24 weeks. The Committee has therefore found it advisable to continue it. The Committee has also mentioned that termination thereof also carries risk to minor.

5. Explanation 1 on which reliance has been placed by learned counsel for the petitioner shows that when the pregnancy is out of offence, anguish itself constitutes grave injury to the mental health of such pregnant woman. The provision therefore shows the strain and stress caused not only by offence but by its consequence. The Parliament has found it fit to treat it as sufficient for all purposes to grant permission to terminate such pregnancy.

6. However, the words employed therein envisage injury to mental health and not to life. Here the Committee of Experts has pointed risk to the life of the minor.

7. In the situation, taking over all view of the matter, in the light of opinion of the Committee, we are not inclined to grant permission as prayed for. Permission is therefore rejected.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)