

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION (ST) NO.10551 OF 2020

SOHAM MANNULAL MEGHAWALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Shri M.B.Ubale, Advocate for the petitioners
Shri S.S.Dande, AGP for respondents 1 to 3

...
CORAM : RAVINDRA V. GHUGE, J.
DATED : April 15, 2020
...

PER COURT:-

1. This matter is taken up through Video-Conferencing by ZOOM App during the nationwide lock down on account of Covid-19 pandemic.

2. On 8.4.2020, this Court had passed the following order:-

" Heard learned Counsel appearing on behalf of the petitioners.

2. The petitioners are approaching this Court in view of extreme urgency, namely, the medical report. The petitioner No.2 is carrying pregnancy and as per the recent medical report dated 4th April, 2020, which is placed on record at at Exh. 'A', the petitioner is carrying a risk of continuation of pregnancy.

3. In view of above, issue notice to the respondents,

returnable on 15.04.2020.

4. Learned AGP waives service of notice for the respondents/ State.

5. The petitioner is permitted to appear before the competent Medical Board i.e. respondent No.2 - The Dean, Government Medical College & Hospital (Ghati), Aurangabad, tomorrow i.e. on 9th April 2020 at 11.00 a.m. for medical examination.

6. Learned AGP to submit the report of aforesaid examination carried out by the competent board to this Court through the office of learned Government Pleader for further orders.

7. Post the petition for further orders on 15th April, 2020.

8. Authenticated copy of this order be supplied to learned Asstt. Govt. Pleader and in turn learned Asstt. Govt. Pleader to communicate the same to the concerned authority today itself. "

3. The petitioner presented herself for medical examination pursuant to the above referred order and was examined by the Eight Members' Committee. A report dated 9.4.2020, in a sealed envelope, in two sets, has been submitted to this Court and the said envelope has been opened in the presence of the learned Advocate for the petitioner and the learned AGP. Since it is a report of the Expert Committee, the said report dated 9.4.2020 is taken on record and marked as Exhibit "A"

for identification.

4. On the request of the learned Advocate for the petitioner, leave to take a copy of the Expert Committee's Report dated 9.4.2020 is granted.

5. The learned Advocate for the petitioner has gone through the report and in addition to the same, I have read out the entire report in the presence of the learned Advocate and the learned AGP. It is material to reproduce the last paragraph, which consists of the opinion of the Expert Committee, as under:-

" Taking into consideration the above findings there is substantial risk to the fetus if born. Hence this Committee recommends termination of pregnancy. Pregnancy can be terminated at any Government recognized centre of choice of patient with due risk to mother and the risk is explained to her and her relatives."

6. The opinion expressed by the Committee is that there is a substantial risk, to the fetus if it is allowed to grow in its normal gestational period. But a risk is also expressed by the committee in so far as the petitioner / mother is concerned, if the termination of the pregnancy is to occur. The committee has granted its permission for causing such termination of pregnancy if the petitioner approaches any

Government recognised center of her choice and has expressed a view that there is a due risk to the mother and such risk is explained to her and her relatives.

7. The learned Advocate for the petitioner submits, on instructions, that the petitioner is willing and ready to run the risk as is explained to her and her relatives by the Eight Members' Committee and in the case of any untoward event, that may occur while carrying out such termination of her pregnancy, she would not hold the medical center or any person responsible as she was made aware of such risk involved.

8. In view of the above, this petition is allowed in terms of prayer clause (B), which reads as under:-

" (B) By issuing Writ of Mandamus or directions in the like nature, the petitioner may kindly be permitted to undergo Medical Termination of Pregnancy at Government Medical College and Hospital, Aurangabad and for that purpose issue necessary orders."

9. The request of the petitioner, that she would approach the Government Medical College and Hospital, Aurangabad for termination of her pregnancy, on 17.4.2020 at 3.00 pm, is granted.

10. The parties shall act on the print out copy of this order obtained from the official website of the Bombay High Court and the learned AGP shall do the needful of intimating respondent No.2 - Government Medical College and Hospital to carry out such termination of pregnancy.

(RAVINDRA V. GHUGE, J.)

...

akl