

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION (STAMP) NO.10577 OF 2020

SHAMINA SHAKIL QURESHI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Shri J.M.Murkute, Advocate for the petitioners.
Shri P.S.Patil, Assistant Government Pleader for the respondents/ State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th May, 2020

Per Court:

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

2 By order dated 30.04.2020, this Court had ordered as under :-

"1. This matter is heard through video conferencing. The petitioner has put forth prayer clause "B", "C" and "D" which read as under :-

"B. The petitioner No.1 may kindly be granted permission for Termination of Pregnancy.

C. The Report in respect of Pregnancy of the petitioner No.1 and the brain condition of child in womb may kindly be called for, from the respondent Nos. 2 and 3 and thereafter necessary permission for Termination of Pregnancy may kindly be granted to the petitioner No.1.

D. Pending hearing and final disposal of this writ petition the respondent no.2 and 3 may kindly be directed to submit the report in respect of Pregnancy of the petitioner No.1 and the brain condition of child in womb, to this Hon'ble Court."

2. *The learned AGP appearing on behalf of the respondents submits that a Medical Board for considering such cases has already been constituted and is available at the Government Medical College and Hospital, Aurangabad.*
3. *I find from the report dated 14/04/2020 prepared and signed by Dr.Kedar (full name is not visible or mentioned) that petitioner No.1 was subjected to Ultrasound Examination of Gravid Uterus when she was in the 20th Gestational week. According to the Radiologist, the expected date of delivery of the child is 01/09/2020. The Radiologist has found certain anomalies in the fetus.*
4. *Considering the above, petitioner No.1 shall present herself before the Medical Board/respondent No.2 at 3.00 p.m. on 02/05/2020. Her husband/petitioner No.2 is permitted to accompany her. She shall be subjected to the Medical examination by the Medical Board in accordance with the established medical procedure.*
5. *The board shall express it's opinion on the following issues :-*
 - [a] Whether the fetus has such anomalies that a child with serious congenital defects should not be allowed to be delivered by the probable mother ?*
 - [b] Whether such a child, if allowed to be born, would not be able to lead a healthy life even with medical intervention and assistance ?*
 - [c] Whether in the opinion of the board, the termination of the pregnancy would be inevitable and necessary ?*
 - [d] Whether the life of petitioner No.1 would not be subjected to risks if such termination of pregnancy is permitted ?*
6. *The Medical Board shall tender it's report in a sealed envelope to the learned Registrar (Judicial) of this court by 03.00 p.m. on 04/05/2020.*
7. *List this petition on 05/05/2020 for further hearing and orders."*

3 The report tendered by the Medical Superintendent of the Government Medical College and Hospital, Aurangabad dated 04.05.2020,

is placed before the Court. I have gone through the said report threadbare. The learned advocate for the petitioner as well as the learned AGP have gone through the said report. The report of the Committee is taken on record and marked as "X" for identification.

4 The findings of the Committee in the said report are as under :-

- "I) *Length of pregnancy : Gestational Age of 21 weeks 02 days.*
- II) *Single live intrauterine gestation with anencephaly.*
- III) *Taking into consideration the above findings :-*
 - (a) *Fetus has serious congenital anomalies, should be allowed termination.*
 - (b) *If allowed to be born, child would not be able to live a healthy life even with medical intervention and assistance.*
 - (c) *Termination of pregnancy is inevitable and necessary.*
 - (d) *Termination of pregnancy has due risk to mother (petitioner) and the risk is explained to her and her relatives."*

5 Thus, the Committee has specifically opined that termination of pregnancy is inevitable and necessary. The probable mother/ petitioner has been explained of the risk involved.

6 The learned advocate for the petitioners submits, on instructions, that the petitioner/probable mother is aware of the risk involved, is willing to run the risk and will not lodge any complaint or grievance against any government recognized MTP centre or doctor if she suffers any untoward incident during such termination of pregnancy.

7 In view of the above, this Writ Petition is allowed in terms of

prayer clause B, which reads as under :-

"B) The petitioner No.1 may kindly be granted permission for Termination of Pregnancy."

8 The request of the petitioners to present petitioner No.1 herself along with her husband (petitioner No.2) before Respondent Nos.2 and 3/ Medical College and Hospital for termination of pregnancy on 08.05.2020 at 11:00 AM, is accepted.

kps

(RAVINDRA V. GHUGE, J.)