IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION (ST) NO. 10578 OF 2020

RAGINI PRADIP DIVEKAR
VERSUS
STATE OF MAHARASHTRA
...
Advocate for Petitioner : Shri Choudhary N.S.
AGP for Respondents 1 to 4 : Shri Kale D.R.
...
CORAM : RAVINDRA V. GHUGE, J.
Dated : May 8, 2020
...

PER COURT :-

1. The learned Advocate for the petitioner informs that the Court fees have been deposited with the Registry and the challan is annexed to the petition paper book.

2. On 5.5.2020, I had passed the following order, under paragraph Nos.1 to 8:-

> *"1. This matter is heard through video conferencing. The petitioner has put forth prayer clause "A" and "B" which read as under :-*
>
> > *"A. Pending hearing and final disposal of this writ petition, the District Level Committee, constituted under the provisions of Medical Termination of Pregnancy Act-1971 and Rules made thereunder be directed to examine the petitioner*

immediately and submit the report of condition of her foetus, in this Hon'ble Court.

B. This writ petition be allowed and by issuing appropriate writ, direction and order, the petitioner be permitted to terminate her existing pregnancy, in the facts and circumstances of the case."

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 18/02/2020 issued by a Radiologist Dr.Rajendra R. Kalantri, a report dated 28/04/2020 issued by Dr.Mrs.Shilpa Satarkar, Radiologist and a further opinion expressed by Dr.Mrs.Anupama Gumaste dated 30/04/2020 that the fetus appears to have a congenital heart disease with the possibility of a double outlet right ventricle (D.O.R.V.). No other gross fetal anomalies are noted. Dr.Gumaste has recommended the termination of pregnancy. The petitioner is in the 24th week of pregnancy.

4. Considering the above, petitioner shall present herself before the Medical Board/respondent No.2 at 10.00 a.m. on 06/05/2020. Her husband and any lady/close relative 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 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 11.00 a.m. on 08/05/2020.

7. The learned Advocate for the petitioner regrets that the court fees/filing fees could not be deposited electronically and he would make an endeavour to make such a payment before the next date of hearing in this matter.

8. List this petition on 08/05/2020 for further hearing and orders."

3. The authorized committee constituted under the law has submitted

it's report in a sealed envelope, dated 8.5.2020. The report was read in open Court and the committee has expressed it's view under paragraphs (A) to (D) as under:-

> *"(A) This cardiovascular defect is a rare form of Complex Cyanotic Congenital Heart disease of serious magnitude and severity associated with high risk of morbidity and mortality in the child, if born.*
>
> *(B) The child may survive with treatment in the form of Major and complex Cardio Vascular Thoracic surgeries immediately in the new born period, but with mortality risk ranging from 15% - 50% (even after surgery). The quality of life will be hampered in view of repeat major cardiovascular surgery, continuous medications and Growth retardation.*
>
> *(C) There is substantial risk to the fetus if born, so this committee recommends termination of this pregnancy.*
>
> *(D) The mother has a comorbidity of cardiac defect in the form of "Patent Foramen Ovale with Left to right Shunt on 2D Echocardiography with grandmultigravida with anemia with previous Cesarean section." Termination of pregnancy has moderate risk to mother (petitioner) which is more than in routine course considering she may require surgical intervention, anesthesia, blood transfusion and any unforeseen complications. This risk is explained to her and her relatives. The Hon. High Court is requested to take an undertaking affidavit of the acceptance of the said risk by the petitioner and her relatives. The pregnancy may be terminated at*

any Govt. recognized hospital of choice of patient."

4. The learned Advocate for the petitioner submits, on specific instructions, that she would approach a Government approved center for medical termination of pregnancy within 24 hours. She is aware of the risk involved in carrying out such termination procedure and would not blame any hospital or Doctor/s if any untoward incident occurs during such termination of pregnancy procedure.

5. A copy of the medical report dated 8.5.2020 is taken on record and marked as Exhibit "X" for identification.

6. In view of the above, this petition is allowed and the petitioner would be at liberty to approach a Government approved medical center for the termination of her pregnancy. She shall be duty bound to complete the paper formalities and procedure adopted by such center. Considering the law applicable, she shall present herself for such termination within 48 hours.

(RAVINDRA V. GHUGE, J.)

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akl/d