

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

WRIT PETITION (ST.) NO.10602 OF 2020

ABC

Since Minor hence through
Her natural guardian mother
Smt. Ashabai Subhash Koli,
Age: 45 years, Occ: Labour,
Resident of : At village Asli,
Taluka Shirpur, District Dhule
Presently at Dhule

PETITIONER

VERSUS

- 1) The State of Maharashtra
Through the Secretary,
Medical Health Department,
Mantralaya, Mumbai
- 2) The Dean/Associate Professor,
Gnyelology Department,
Dr. Bhausahab Hire Government
Medical College, Dhule,
District Dhule
- 3) The Officer in Charge
Thalner Police Station,
Thalner, Taluka Shirpur,
District Dhule

RESPONDENTS

Mr Mukul S. Kulkarni, Advocate for the petitioner;
Smt. V.N. Patil-Jadhav, A.G.P. for respondent/State;

**CORAM : PRASANNA B. VARALE &
SHRIKANT D. KULKARNI, JJ.**

DATED : 22nd MAY, 2020

ORAL ORDER:

By order dated 19th May, 2020, this Court (Coram: V.L. Achliya, J.) permitted the petitioner to appear before the Expert Committee for the medical examination on 20th May, 2020 at 11.00 a.m. The Expert Committee/Board was permitted to examine the petitioner and submit its report to this Court through the office of the Government Pleader, High Court of Bombay, Bench at Aurangabad.

2. Accordingly, Smt. Jadhav, A.G.P. made available the report of the Expert Committee. Perusal of the said report shows that on medical examination, the Expert Committee submitted its key recommendations with justification and same reads thus :

“ The committee is of the opinion that the pregnancy

of victim (name withheld) should be allowed to be terminated on the grounds that the pregnant mother is minor and she doesn't want to continue the pregnancy And also continuation of pregnancy would lead to grave injury to her physical & mental health."

3. The petitioner is a victim of sexual exploitation. In nearly an identical situation, the Division Bench of this Court (Coram : S.V. Gangapurwala and Shrikant D. Kulkarni, JJ.) passed the order on 20th March, 2020, in Writ Petition No. 4219 of 2020. Mr. Kulkarni, learned Counsel appearing for the petitioner invited our attention to the said order. One of us (Shrikant D. Kulkarni, J.) is a party to the order dated 20th March, 2020.

4. Considering the report of the Expert Committee along with the provisions of the Act, namely, Explanation – I to Section 3(2) (ii) of the Medical Termination of Pregnancy Act, 1971 and on the backdrop of opinion expressed by the Committee that continuation of pregnancy

would lead to grave injury to her physical and mental health, in our opinion, the petition needs to be allowed.

5. Accordingly, the petition is allowed in terms of prayer clause (A). The petitioner is permitted to get the pregnancy terminated at Shri. Bhausaheb Hire Government Medical College and Hospital, Dhule.

6. Considering the fact that the pregnancy carried by the petitioner is a result of offence of rape, complaint has already been lodged. The hospital where pregnancy of petitioner would be terminated shall preserve tissue sample and blood sample of the fetus for carrying out necessary medical tests including DNA, finger printing/mapping. The Investigating Officer who conducted the investigation in the matter shall ensure that the samples of tissues and blood etc., shall be forwarded to the Regional Forensic Laboratory, Aurangabad for DNA, finger printing/mapping and for carrying necessary tests and the samples and report shall be

preserved for the purpose of trial of the offence.

7. The police authority/investigating machinery may approach the hospital where the petitioner would terminate the pregnancy. The petitioner shall also inform the concerned police station about the day the petitioner is to terminate the pregnancy.

8. In the light of above, the writ petition is disposed of. No costs.

Authenticated copy of this order be given to the parties.

[SHRIKANT D. KULKARNI J.]

[PRASANNA B. VARALE,J.]