

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

WRIT PETITION (ST) NO. 10631 OF 2020

Jayshri w/o. Baburao Khandagale

.... Petitioner

Versus

The Union of India and others

....Respondents

...

Shri. Sushant V. Dixit h/f Shri. Vijay V. Deshmukh, Advocate for
the petitioner

Mrs. G. L. Deshpande, A.G.P. for respondents no. 2 to 4

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**CORAM : S. V. GANGAPURWALA
AND
B. U. DEBADWAR, JJ.**

DATE : 02nd June, 2020

ORDER :

1. The petitioner seeks permission to terminate the pregnancy of her daughter. The petitioner contends that, her daughter is minor and rape victim.

2. The daughter of the petitioner was referred to the Expert Committee constituted by respondent no. 3. The Expert Committee of respondent no. 3 examined the daughter of the petitioner and submitted the report. Some of the findings of the report read thus:

"14. Additional findings and observations:-

Record additional findings and observations here, if any (Also include any risk to the health of girl / women in case continuation of pregnancy as well as termination) – She is having Moderate Anemia (Hb-8.3 gm) hence she needs correction of anemia first. So may need blood transfusion and then termination of pregnancy.

15. Physical fitness for termination : -

- ✓ a) Yes.
- b) No.

16. Recommendation by Medical Board for termination (choose one and provide any additional recommendations of the panel in the box below if any):

a) Recommended – (if yes, please mention the methods):- Yes. Medical Method. If Medical Methods fail then Surgical termination of pregnancy.

b) Not (if no, justification):-"

3. As per the report of the Expert Committee, the pregnancy needs to be terminated. As per the report, the petitioner may require blood transfusion before termination of pregnancy. The risk involved is explained to the petitioner. The learned counsel for the petitioner submits that, the risk involved in termination of pregnancy is explained to the petitioner and her daughter. They want to proceed further with termination of pregnancy.

4. It appears that, the First Information Report bearing Crime No. 226 of 2020 is registered with Vivekanand Chowk Police Station, Latur, against the accused.

5. Considering Explanation – I to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971, and the opinion of the Committee and the fact that the petitioner claims her daughter to be a rape victim, we allow the petitioner's daughter to terminate pregnancy.

6. The daughter of the petitioner may get the pregnancy terminated at respondent no. 3 - Government Medical College and Hospital, Latur.

7. Considering the fact that the pregnancy carried by the victim is a result of offence of rape, complaint has already been lodged. The hospital where pregnancy of petitioner's daughter would be terminated shall preserve tissue sample and blood sample of the foetus 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.

8. 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.

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

10. Authenticated copy be given.

[B.U. DEBADWAR]
JUDGE

[S. V. GANGAPURWALA]
JUDGE