

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

936 WRIT PETITION (ST) NO.10808 OF 2020

XYZ through Natural Guardian
Sukhdeo Vasant Ingale

.. Petitioner

Versus

The State of Maharashtra & Others

.. Respondents

...

Advocate for Petitioner : Shri Harshal P. Randhir
AGP for Respondents No.1 and 3 : Shri S.N. Kendre

...

**CORAM : SUNIL P. DESHMUKH
AND
B. U. DEBADWAR, JJ.**

DATE : 26-06-2020

ORAL ORDER (PER: B.U. DEBADWAR, J.) :

1. Petitioner claiming herself to be a minor girl, aged 17 years and rape victim, through her father and natural guardian seeks permission to terminate pregnancy.

2. Petitioner, vide order dated 23-06-2020 passed by Division Bench of this Court (Coram: S.V. Gangapurwala & R.G. AVACHAT, JJ.), was referred to the Expert Committee constituted by respondent no.3. As respondent no.3 is exclusively referred for COVID-19 patients, its functions are performed at

respondent no.4 college which is stated to have been authorized. The Expert Committee examined the petitioner on 25-06-2020 and submitted the report after conducting the necessary tests and reported as follows :

"After careful examination and investigation, the committee comes to opinion that

• Patient is having pregnancy of duration 25 weeks and 3 days.

• Her general health is normal. Pre Anaesthetic check up has been done and is normal.

• Other reports such as X rays, ECG, Sonography and complete blood picture are normal.

• There is minimum physical risk to the mother and fetus, and is same as that of general pregnant population provided other unexpected complications does not arise.

• Patient may suffer from mental health hazards if pregnancy continues as pregnancy is out of rape."

3. The learned counsel for the petitioner submits that, the risk involved in the termination of pregnancy is explained to the petitioner and her father and natural guardian. After getting explained the risk factor, they stick up with their decision of termination of pregnancy. Copy of the FIR for the offences under Sections 376(1), 376(2), 376(2)(i), 376(2)(n) of the Indian Penal Code and under sections 4, 5(L), 6 and 3 of Protection of Children from Sexual Offences Act, annexed to the petition reveals that, in

pursuance of the report lodged by the petitioner bearing Crime No.0165 came to be registered against the accused at Jamner Police Station, District Jalgaon.

4. Considering Explanation – 1 to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971, the opinion of the Committee and the fact that petitioner claims herself to be a rape victim, we allow her to terminate pregnancy. The petitioner may get the pregnancy terminated at respondent no.4 which is stated to have been authorized.

5. Considering the fact that pregnancy carried by the petitioner is a result of offence of rape, the hospital, where pregnancy of the petitioner 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 samples of tissue and blood etc., shall be forwarded to the concerned Regional Forensic Laboratory for DNA, finger printing, mapping and for carrying necessary tests and samples and report shall be preserved for the purpose of trial of the criminal case.

6. Respondent no.4 shall inform the concerned police station about the day on which pregnancy of petitioner would be terminated and Investigating Officer may approach the respondent no.4 on the day of the termination of the pregnancy and thereafter, if necessary.

7. In light of the above, the writ petition is disposed of.
No order as to costs.

. Authenticated copy be given.

(B. U. DEBADWAR, J.)

(SUNIL P. DESHMUKH, J.)

Gajanan