

CWP-16932-2020

**204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(Through Video Conferencing)

CWP-16932-2020

Date of Decision: 16.10.2020

Deepika Walia and another

.....Petitioners

Versus

Union Territory and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sunil Kumar Sharma, Advocate, for the petitioners.

Ms. Sonia Sharma, Additional Government Counsel
for respondents No.1 and 2.

Mr. Anmol Partap Singh Mann, Advocate, for
respondent No.3-PGIMER, Chandigarh.

NIRMALJIT KAUR, J. (Oral)

Prayer in the present writ petition is to direct respondent No.3 to constitute a Medical Board for assessing the condition of petitioner No.1 for termination of her pregnancy, in view of opinion given by respondent No.2, as petitioner No.1 is in her 22nd week of pregnancy.

Petitioner No.1 is in her 22nd week of pregnancy and is presently undergoing the treatment from Government Medical College Hospital, Sector 32, Chandigarh (for short, 'GMCH-32, Chandigarh'). During her regular checkup, Doctors found that petitioner No.1 is suffering from pregnancy complications. Accordingly, she approached GMCH-32, Chandigarh for treatment. Doctors found that (i) the skull of the foetus is not visible (ii) there is hole in the heart of foetus (iii) the upper part of the spine is not visible. The copies of the medical reports dated 6.10.2020 are annexed herewith as (Anneuxre P-1). The relevant portion of the opinion of

the Doctors is as under:-

“As it is malformed baby, patient and relatives has been explained about the risk and sudden IUD and it has crossed termination period (beyond 20 weeks) so she has to continue with the pregnancy.

- C/D/W (Unit consultant)
- Patient to get Court orders for termination of pregnancy or to follow up in the PGI for termination.
- All the risk c/w malformation has been explained and no emg isis for foetus to be done.”

While issuing notice of motion, this Court directed petitioner No.1 to appear before the Permanent Medical Examination Board constituted by respondent No.3-PGIMER, Chandigarh and respondent No.3 was directed to submit the requisite medical examination report in sealed cover. The said report of the above medical board has been submitted, which is as under:-

“1. As per USG done on 14.10.2020 the period of gestation is 22 wks + 3 days. She has a single live intrauterine fetus with congenital malformation with spinal, cranial and cardiac abnormalities. There is a development defect in the fetal heart, brain and spine which has poor prognosis, not compatible with normal life.

2. The fetal echo done on 14.10.2020 suggests **Double Outlet Right Ventricle (DORV) and Large Sub aortic Ventricular Septal Defect (VSD)**. This is a severe congenital defect and the possibility of complete repair with surgery cannot be predicted at this time.

3. As per the Royal college of Obstetricians & Gynecologists (RCOG) guidelines (Termination of pregnancy of fetal abnormality, 2010), in cases where medical abortion is being performed after 21 wks + 6 days of gestation for fetal abnormalities, to prevent a live birth, ultrasound guided

injection of Potassium Chloride in the fetal heart is advised prior to abortion.

4. Medical termination of pregnancy at an advanced gestation of 22 weeks + 3 days carries more than the usual risks which have been explained to patient.

5. Keeping in view the above, the Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage due to severe complex congenital cardiac defect and associated congenital malformation in the fetus. We also wish to bring to the knowledge of the Hon'ble High Court that doctors will perform the procedure of Potassium Chloride injection in the fetal heart under ultrasound guidance before termination of pregnancy, so as to prevent the fetus being born alive. Also, the medical termination of pregnancy at an advanced gestation of 22 weeks + 3 days carries more than the usual risks which have been explained to patient.”

It is, therefore, clear from the report that the medical board has recommended to undergo the termination of the pregnancy due to severe complex congenital cardiac defect and associated congenital malformation in the fetus.

Learned counsel for respondent No.3-PGIMER has also brought to the notice of this Court the proposed Medical Termination of Pregnancy (Amendment) Bill, 2020, wherein, as per Section 3 (2B) the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.

Although, it is only proposed Bill, which is yet to receive approval, it, as on date supports the medical opinion recommending the

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termination of pregnancy in such cases.

In view of the above, respondent No.3-PGIMER, Chandigarh is requested to get the pregnancy of petitioner No.1-Deepika Walia terminated under the supervision of the Head of Department of PGIMER, Chandigarh (Obstetrics and Gynecology). It is further requested that all necessary facilities for undertaking the procedure be afforded to the patient. The petitioner be admitted in PGIMER, Chandigarh by tomorrow i.e. 17.10.2020 and necessary procedure be carried out thereafter taking into account the necessary medical parameters.

In case, the petitioner is eligible for any benefit under the Poor Patient Welfare Fund, the petitioner may submit necessary application, which shall be considered by the PGIMER authorities, in accordance with law.

Disposed of in the above terms.

(NIRMALJIT KAUR)
JUDGE

16.10.2020

sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No