

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19857 of 2020

Date of Decision : 27.11.2020

Seema Kanojia

...Petitioner

Versus

Union Territory Chandigarh and another

...Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Balkar Singh, Advocate for the petitioner.

Ms. Shubhreet Kaur Saron, Advocate for respondent No.1.

Mr. Parteek Gupta, Advocate for respondent No.2-PGIMER.

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Harsimran Singh Sethi, J. (Oral)

The report of Medical Board filed by the learned counsel for respondent No.2 is taken on record.

The present petition has been filed by the petitioner seeking a direction to respondent No.2 to terminate her pregnancy keeping in view the medical deformities of the fetus. Learned counsel for the petitioner argues that in case the pregnancy is not terminated, the child if born, will be handicapped for entire life to come and will not be able to live a healthy life.

On 23.11.2020, this Court had directed the petitioner to get herself medically examined by the permanent Medical Board of respondent No.2 and the Board was directed to make recommendations and place the same before this Court. The Medical Board examined the petitioner on 24.11.2020 and the observations of the Medical Board have been placed before this Court today. The observations of the Medical Board are as

under:-

“1. As per USG done on 24.11.2020, her period of gestation is 25 wks. She has a single live intrauterine fetus with gross non-communicating hydrocephalus with small posterior fossa with spinal dysraphism. This is a congenital malformation of the fetal brain and spinal cord suggestive of Arnold Chiari syndrome which is not compatible with normal life.

2. Her previous baby was born by a caesarean section. She has been examined and found to be medically fit.

3. The patient is distressed due to carrying a pregnancy with congenital fetal malformation and does not wish to continue this pregnancy.

4. As per the Royal College of Obstetricians and Gynecologists (RCOG) guidelines (Termination of pregnancy for fetal abnormality, 2010), in cases where medical abortions is being performed after 21 weeks + 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.

5. Medical termination of pregnancy at an advanced gestation of 25 weeks and previous caesarean section (LSCS) carries more than usual risks which have been explained to patient.

6. Keeping in view the above, the Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage due to Arnold Chiari syndrome 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 25 weeks and previous caesarean section (LSCS), carries more than the usual risks which have been explained to patient.”

Learned counsel for the petitioner submits that the risk

involved has been explained to the petitioner but, once it is clear that the

fetus is having Arnold Chiari syndrome, the pregnancy needs to be terminated even as per the advice of the Medical Board, the petitioner is agreeable for the termination of the pregnancy with the risk involved.

Learned counsel appearing for respondent No.2 very fairly states that in case, the petitioner gets herself admitted tomorrow i.e. 28.11.2020, she will be examined and an appropriate procedure involved for termination of pregnancy, as recommended by the Medical Board, will be performed upon her expeditiously thereafter.

In view of the above, as being prayed for by the petitioner, she is allowed to terminate her pregnancy keeping in view the recommendations of the permanent Medical Board of respondent No.2 as the petitioner has accepted the recommendations of the Medical Board fully knowing the risk involved therein, which has been reproduced hereinbefore. This Court is positive that all the appropriate precautions will be taken by the doctors concerned while terminating the pregnancy of the petitioner so as to involve minimum risk possible to the petitioner.

Let the petitioner appear before the Medical Superintendent of respondent No.2 by 10 a.m. on 28.11.2020 after which, the doctors will perform an appropriate procedure for terminating the pregnancy of the petitioner as soon as possible.

The present writ petition stands disposed of in above terms.

November 27, 2020

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No