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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21002-2020 (O&M)
Date of decision: 14.12.2020

Harwinder Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Preet Arora, Advocate for the petitioner.

Mr. T.P.S. Chawla, DAG, Punjab.

Mr. Aditya Jain, Advocate for respondent No.2.

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ANIL KSHETARPAL, J. (ORAL)

Through this writ petition filed under Article 226 of the Constitution of India, the petitioner prays for a writ in the nature of mandamus directing respondent No.2-PGI to carry out the abortion of the foetus as the same is abnormal and have bleak chances of survival.

On 07.12.2020, the petitioner was directed to appear before the Medical Board constituted by the PGI and submit the report.

The report of the Medical Board has been forwarded on official e-mail of the Court, which reads as under:-

"Report of the Medical board

Subject: CWP No. 21002 of 2020 titled as Harwinder

Kaur Vs State of Punjab & Another regarding patient Mrs. Harwinder Kaur WO Mr.Inderjith Singh, age - 29 years, female, Cr.No.202003243060, R/o. Akbarpur, Rupnagar, Punjab, India

With reference to the directions from the Hon'ble Punjab and Haryana High Court, Chandigarh dated 07/12/2020 received in the MS office on 8/12/2020 from the Legal cell, PGIMER, Chandigarh wherein the Permanent Medical Board has been asked to medically examine the petitioner Harwinder Kaur and submit the requisite medical

examination report.

The petitioner Harwinder Kaur came to the O/o Medical Superintendent on 10/12/2020 and was medically evaluated by the Medical Board at PGIMER, Chandigarh on dated 10/12/2020. Following are the observations:

1. This is her third pregnancy. Her first pregnancy was a live birth by caesarean section and section was an abortion. Her period of gestation as per her dates is 25+ weeks. As per ultrasound and MRI done on 10/12/2020, the period of gestation is 23 weeks. She has a single live intrauterine fetus with bilateral small dysplastic kidneys with anhydramnios (absent amniotic fluid) and a large cystic structure in the abdomino-pelvic cavity s/o urachal cyst / diverticulum. These developmental defects have poor prognosis & are incompatible with normal life.

2. The patient desires abortion as she is mentally disturbed due to carrying a pregnancy with fetal malformation which has a poor outcome. She has been examined by a physician and found to be medically fit.

3. As per the Royal college of Obstetricians & Gynaecologists (RCOG) guidelines (Termination of

pregnancy for fetal abnormality, 2010). in cases where medical abortion is being performed after 21+6 weeks of gestation, ultrasound guided injection of Potassium Chloride in the fetal heart is advised prior to abortion to prevent a live birth

4. Medical termination of pregnancy at an advanced gestation of 22 weeks carries more than usual risks. Her previous baby was born by a caesarean section 8 years ago. As she has a previous caesarean section, she is at a higher risk of complications during the process of abortion including need for surgery if abortion process by natural route is not successful. All this has been explained to the patient and her attendant (brother).

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 the 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 injection of Potassium Chloride 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 carries more than the usual risks which have been explained to patient."

A perusal of the report indicates that the Board has found that she has a single live intrauterine fetus with bilateral small dysplastic kidneys with anhydramnios (absent amniotic fluid) and a large cystic structure in the abdomino-pelvic cavity. These developmental defects have poor prognosis & are incompatible with normal life. It has further

been reported that this is her third pregnancy.

In the light of the report of the permanent Medical Board of PGIMER, the present writ petition is disposed of with liberty to the petitioner to avail the benefit of the report at the earliest and the PGIMER will thereafter proceed in accordance with the recommendations of the Board, if the petitioner approaches the Institute for termination of her pregnancy.

In view thereof, the petition is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the above-stated order.

14.12.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**