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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Through Video Conference)

WPA 17378 of 2021

Dipshikha Midya
Vs.
The State of West Bengal & Ors.

Mr. Saswata Sarkar,
Ms. Sneha Mukherjee
.... For the petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Pranad Halder,
Mr. Somnath Naskar
... For the State.

Heard learned advocates appearing for the parties.

The petitioner submits that under the compelling circumstances of coming to the knowledge of the petitioner that the foetus has got congenital cardiac defect, this writ petition has been moved seeking direction upon the respondent concerned to allow the petitioner to undergo medical termination of the pregnancy after the opinion of the Medical Board of Experts to assess the pregnancy of the petitioner with regard to the termination of pregnancy beyond the prescribed period of 24 weeks.

Pursuant to the order of this Court dated 26th October, 2021, a Medical Board consisting of nine specialists was formed and their report dated 29th October, 2021 has been filed in Court through the learned Government Pleader. The same may be kept with the

record. The opinion of the Medical Board may be recorded as follows:-

“The Decision of the Medical Board called in accordance to the MSVP, Notice Memo No.SSKM/MSVP/1274/2021, Dated 28.10.2021 in response to the E. Mail Dated 27.10.2021 and Hon’ble Court Order Dated, 26.10.2021 is as follows:

Mrs. Dipshikha Midya, 28 years, second gravida (History of previous pregnancy loss at 20 weeks of gestation) has presented at 32 weeks 4 days of gestation. Fetal Echocardiography on 23.10.2021 (at 31 weeks 5 days) reported hypoplastic mitral valve and dysplastic aortic valve with significant aortic stenosis and ventricular dysfunction. However, ascending aorta and aortic arch are not significantly hypoplastic.

The baby will likely to suffer from immediate cardiac complications with enhanced risk of mortality within first few weeks of life, unless urgent surgical intervention is feasible.

The survival rate with multiple staged surgery may improve the outcome with high morbidity and suboptimal growth and development in future.

In any case, if the baby is born premature the complications of prematurity will further aggravate the clinical condition of the infant with unfavourable immediate and long term outcome.

Also, premature termination has an increased

chance of cesarean delivery which will jeopardize her future pregnancy”.

Considering this report of expertise, I am not inclined to consider the prayer of the petitioner for termination of the pregnancy. However, considering the submission of the learned Government Pleader that the State will take all possible steps for the safety of the child as well as the mother and facilitate the admission and proper care of the petitioner in the SSKM Hospital at Kolkata and that the State shall also see that all possible steps are taken for safe delivery of the child following medical ethics, this writ petition, being WPA 17378 of 2021 is disposed of with the direction upon the State respondents to take immediate steps as has been submitted by the State through their learned Government Pleader.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance with all the requisite formalities.

(Md. Nizamuddin, J.)