

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

WRIT PETITION NO. 9045 OF 2021

X (Since Minor Through her
Mother/guardian)

.. Petitioner

Versus

The State of Maharashtra and another

.. Respondents

Mr. Mahesh S. Bhosale, Advocate for the Petitioner.

Mr. S. W. Munde, A. G. P. for Respondents/State.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 23rd AUGUST, 2021.

PER COURT:-

. The petitioner seeks permission to terminate the pregnancy. The petitioner was referred to the expert committee at Swami Ramanand Teerth Rural Government Medical College and Hospital, Ambajogai. The expert committee has recommended termination of pregnancy. The relevant part of the report reads thus :

13. Investigations done -

Sr. No.	Investigations done	Key findings
1.	Obstetrics USG report date 20.08.2021 by Dr. Ganesh Tondge Associate Professor OBGY department, SRTRGMC, Ambajogai	Single live intrauterine pregnancy of Average gestational age 22 weeks 3 days

14. Additional findings and observations-

Record additional findings and observations here if any (also include any risk to the health of girl/woman in case of continuation of pregnancy as well as termination)

No Complaints

Examination finding : General Condition fair, Afebrile, PR-84/min., BP 110/80mmhg, no pallor, No oedema/Icterus

P/A – Uterus 22 weeks, Relaxed

15. Physical fitness for termination-

a. Yes.

16. Recommendation by medical Board for termination

(choose one and provide any additional recommendations of the panel in the box below if any)

a. Recommend-(if yes please mention the methods) –

Medical, if failed surgical

Key recommendations of the panel if any with justification-

1. Continuation of pregnancy affects the mental health of the mother and will cause grave injury to mental health of the mother

2. She may have risk of various complications if pregnancy is terminated at this stage.

- a) Haemorrhage
- b) Failure of Abortion
- c) Need of Surgical method (Hysterotomy)
- d) Incomplete Abortion
- e) Sepsis (Infection)
- f) Maternal death
- g) Need of blood transfusion
- h) Need of obstetric hysterectomy

3. Committee has explained the risk involved in said procedure to the patient and her relatives.

Pregnancy is caused by alleged rape and continuation of pregnancy will cause grave injury to the mental health of mother. Hence, the committee recommends termination of pregnancy at government recognized centre of choice of patient with above mentioned risks.

2. The report suggests that the continuation of the pregnancy will be of high risk for the petitioner's life. The termination of pregnancy is recommended on physical and mental trauma grounds.

3. In addition to the above, the petitioner is a rape victim. Explanation No. I to Sec. 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971 (for short "said Act") states that, where any pregnancy alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

4. It appears that, the FIR bearing Crime No. 26 of 2021 dated 21.02.2021 is registered with Yusuf Wadgaon Police Station.

5. Considering Explanation-I to Section 3(2)(ii) of the said Act and the opinion of the committee and the fact that the petitioner claims to be a rape victim, we allow the petitioner to terminate pregnancy.

6. The learned counsel for the petitioner submits that the petitioner would terminate the pregnancy at Swami Ramanand Teerth Rural

Government Medical College and Hospital, Ambajogai.

7. Considering the fact that the pregnancy carried by the victim is a result of offence of rape, complaint has already been lodged. The hospital where pregnancy of petitioner would be terminated shall preserve tissue sample and blood sample of the fetus for carrying out necessary medical tests including DNA, finger printing/mapping. The Investigating Officer who conducted the investigation in the matter shall ensure that the samples of tissues and blood etc. shall be forwarded to the Regional Forensic Laboratory, Aurangabad for DNA, finger printing/mapping and for carrying necessary tests and the samples and report shall be preserved for the purpose of trial of the offence.

8. The police authority/investigating machinery may approach the hospital where the petitioner would terminate the pregnancy. The petitioner shall also inform the concerned police station about the day the petitioner is to terminate the pregnancy.

9. In the light of above, the writ petition is disposed of. No costs.

10. Authenticate copy be given.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.