

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2241 OF 2021

'X'

Since minor,

Through her mother-Sangeeta Suresh Patil ... Petitioner

V/s.

State of Maharashtra ... Respondent

Mr.Kranti L.C., Advocate for the Petitioner.

Dr.Kirti Kulkarni, AGP for the Respondent/State.

**CORAM : UJJAL BHUYAN &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : JULY 01, 2021.**

P.C.:-

Heard learned counsel for the parties.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks a direction to the respondent for constitution of a medical board to examine her pregnancy and thereafter to permit her to undergo medical termination of pregnancy.

3. Petitioner has stated that she is a minor and that she was subjected to sexual assault which resulted in the unwarranted pregnancy.

4. On 29th June, 2021 we had passed the following order :-

“2. Learned counsel for the petitioner submits that petitioner is a minor and was subjected to sexual assault pertaining to First Information Report dated 5th June, 2021 lodged before Shahuwadi Police Station, District Kolhapur which has resulted in an unwarranted

pregnancy. The petitioner was thereafter taken to the Child Welfare Committee, Kolhapur which referred her to the Civil Surgeon of Rajarshee Chatrapati Shahu Maharaj Government Medical College, Kolhapur. It appears that the said Medical College had constituted a medical board which examined the petitioner on 19th June, 2021 and thereafter submitted report on 21st June, 2021 recommending termination of pregnancy.

3. As per the report, pregnancy of the petitioner is of 23.5 weeks. As the petitioner is an unmarried minor of about 16 years of age, medical board has opined that continuation of pregnancy can cause grave injury to her mental and physical health.

4. In view of such report of the medical board, we request learned A.G.P to get in touch with Rajarshee Chatrapati Shahu Maharaj Government Medical College, Kolhapur and place the original medical report dated 21st June, 2021 before the court.

5. List the petition on 1st July, 2021.”

5. Today when the matter is called upon, learned AGP Dr. Kulkarni has placed before us a copy of the medical report dated 21st June, 2021.

6. We have carefully perused the report of the medical board. As per the report the victim/petitioner is aged about 16 years 6 months. Upon gynaecological and sonographic examination she was found to be carrying fetus of 23 weeks 3 days. After noting that petitioner is a victim of alleged sexual assault and is a minor, medical board opined that continuation of pregnancy can cause grave injury to her mental and physical health, whereafter the board recommended termination of pregnancy, as petitioner is found to be medically fit to undergo medical termination of pregnancy.

7. Upon hearing learned counsel for the parties and upon due consideration, particularly having regard to the report dated 21st June, 2021 as well as the provisions of Explanation (1) to section 3

of the Medical Termination of Pregnancy Act, 1971, we permit the petitioner to undergo medical termination of her pregnancy. Accordingly, Child Welfare Committee, Kolhapur shall present the petitioner/victim girl before the Rajarshee Chatrapati Shahu Maharaj Government Medical College, Kolhapur at the earliest for carrying out the above procedure. Child Welfare Committee, Kolhapur shall provide all assistance to the victim/petitioner. However, in the event the pregnancy gives birth to a live child, the State should step in and do the needful to look after the well being of the child. Since it is a case of alleged sexual assault, the hospital authorities are directed to preserve the DNA samples of both mother and the fetus and to hand over the same to the investigating agency as and when requisitioned.

8. With the above directions, writ petition is disposed of.

(PRITHVIRAJ K. CHAVAN, J.)

(UJJAL BHUYAN, J.)

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