

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2283 OF 2021**

Surpiya Mithun Gavand and another.] Petitioner

Vs.

The State of Maharashtra and others.] Respondents

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Mr. Prosper D'Souza, for Petitioner.

Ms. M.S. Shrivastav, A.G.P, for Respondent No.1-State.

Mrs. Purnima Awasthi, for Respondent No.2-Union of India.

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**CORAM : UJJAL BHUYAN &
PRITHVIRAJ K. CHAVAN, JJ**

**DATE : 3rd JULY, 2021.
[Through Video Conferencing]**

P.C.

1. Heard learned counsel for the parties.
2. On 29th June, 2021, we had passed the following order in the present petition which sums up the issues involved;
 2. By filing this petition under Article 226 of the Constitution of India, petitioners seek a direction to respondent No.3 i.e Dean, Sir J.J. Group of Hospitals & Grant Medical College, Mumbai for constitution of a medical board to examine pregnancy of petitioner No.1 and

thereafter grant permission to her to undergo medical termination of her pregnancy which is stated to be more than twenty weeks on account of severe abnormalities in the fetus.

3. Having heard learned counsel for the parties and on due consideration, we direct Dean, Sir J.J. Group of Hospitals & Grant Medical College, Mumbai to constitute a medical board for examination of petitioner No.1 who shall appear before the Dean within forty eight hours.

4. Report of the medical board shall be placed before this court in a sealed cover on or before the next date”.

3. Today when the matter is called upon, report of the medical board dated 2nd July, 2021 has been placed before us which we have perused. Report reads as under;

COMMITTEE OPINION

“After careful examination and study of multiple sonography reports, it is confirmed that the fetus suffers from ACRANIA-Exencephaly Sequence, open spina Bifida involving almost entire spine from cervical to upper lumbar vertebrae.

The condition of the fetus fulfills the criteria of “substantial risk of serious physical handicap”.

The woman has been explained about the outcome in the language she understands.

The pregnant woman has voluntarily expressed her desire to terminate the pregnancy and is well informed about the nature of the condition of fetus and its outcome. She is anguished with the condition of the fetus in Utero, as the child born with may have morbid life with multiple operative interventions with very high morbidity and mortality.

The pregnancy has advanced to 22 weeks and is beyond 20 weeks cut off of the medical termination of Pregnancy Act. Hence she has approached honorable court for termination of pregnancy.

Thus if the court permits, the pregnancy can be terminated at any tertiary care hospital as desired by the woman”.

4. On careful perusal of the report of the medical board, it is seen that according to the medical board fetus suffers from severe abnormalities which fulfills the criteria of substantial risk of serious physical handicap. Medical board has explained that if the pregnancy results in birth of a child, multiple operative interventions with very high morbidity and mortality would be required. Pregnancy has advanced to twenty two weeks. Therefore, medical board has recommended termination of pregnancy.

5. Having heard learned counsel for the parties and on due consideration, we permit the petitioner No.1 to undergo medical termination of her pregnancy in a hospital of her choice having adequate facilities expeditiously. However, it is made clear that in the event, pregnancy results in the birth of a live child, petitioners shall have to take the responsibility of the child.

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

[PRITHVIRAJ K. CHAVAN, J.]

[UJJAL BHUYAN, J.]