



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.2077 of 2021

WEB COPY

S.Jeya

... Petitioner

Vs

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Dean
Government Medical College Hospital,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to terminate the petitioner's pregnancy medically by considering her representation dated 29.01.2021 within a stipulated time fixed by this Court.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.M.Rajarajan

Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner got married to one Saravanan and became pregnant. The scan results of the petitioner indicate that the fetus has certain anomalies. As a result of which, the child to be born will have serious cardiac issue. It appears that the petitioner was advised to terminate the pregnancy. Since the petitioner is an young woman and this being her first pregnancy, the petitioner could not make up her mind immediately. That is led to delay and by now, gestation age has crossed 20 weeks. When the petitioner approached the second respondent, the second respondent had made it clear that they have to necessarily follow the procedure laid down in Medical Termination of Pregnancy Act, 1971. Since the petitioner apprehends that this may cause further delay, she rushed to this Court.

3.The learned Additional Government Pleader had taken the

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trouble to obtain quick instructions. He fairly states that the respondents would abide by the orders of this Court. Section 3(2)(a)(ii) of the Medical Termination of Pregnancy Act, 1971, reads as follows:

"When pregnancies may be terminated by registered medical practitioners:

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped. "

4.The case on hand appears to be fall within the said parameters. However, the requisite opinion in this regard must be formed by the duly constituted board. I, therefore, direct the second respondent herein to constitute a medical board as contemplated by the aforesaid statute and refer the case of the petitioner to the said Medical Board. If the Medical Board after examining the petitioner comes to the conclusion that the child unborn would have a cardiac abnormalities as indicated above, it would permit termination of pregnancy of the petitioner. After the said Medical Board gives the clearance, the termination of the petitioner's pregnancy will be performed immediately and of-course, the Doctor will ensure that the petitioner's life is not in danger.

5.The Writ Petition is allowed on these terms. No costs.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.



2.The Dean
Government Medical College Hospital,
Thoothukudi,
Thoothukudi District.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-3467[F] dated 05/02/2021)

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