

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP 610 of 2021 (O&M)

Date of Decision: January 18, 2021

Bhawna Bhatia and anotherPetitioners
Versus
State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jagjot Singh, Advocate
for the petitioners.

Mr. Shireesh Gupta, Sr. DAG, Punjab
for respondent No. 1.

Mr. Alok Jain, Advocate
for respondent No.2-PGIMER.

FATEH DEEP SINGH, J. (Oral)

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The present petition by wife Bhawna Bhatia and husband Deepak Bhatia by way of civil writ petition under Articles 226/227 of the Constitution of India seeks writ in the nature of *mandamus* for directing the respondents to terminate

the pregnancy of the child in the womb of petitioner No. 1 on account of “**poor prognosis in view of multiple congenital fetal anomalies**” .

Notice of the petition was given to the respondents and report of the PGI Chandigarh-respondent No.2 was also called for vide order of this Court dated 11.01.2021. The learned counsel for the respondents had made statements that they do not oppose the relief so sought and have no objection if the petition stands allowed.

Upon hearing the parties and perusal of the records.

Admittedly, petitioners got married to each other on 11.05.2013 out of which they have been bestowed with a girl child on 22.07.2021. It is, subsequently, petitioner No. 1 wife got pregnant with pregnancy of 22 weeks' and 06 days (approximately) at the time of filing of the petition. It was during routine medical check up and examinations of Bhawna Bhatia, it transpired that the child in the womb was suffering from congenital anomalies, i.e. **abnormal soft tissue mass**

thickening around the foetal head, nuchal fold was 6.1 mm and four cardiac chambers were seen having a large **Atrioventricular Septal Depect (AVSD)**, i.e. a large hole in **the heart** and the same is supported by the medical document (Annexure P-1). The reports submitted by duly constituted permanent medical board of PGI at Chandigarh in its report dated 14.01.2021 has detailed as under:-

“Atrio-Ventricular Septal Defect with overriding of aorta and small pulmonary artery. The fetal echocardiography done on 13.01.2021 has findings suggestive of multiple developmental cardio vascular anomaly including double outlet right ventricle (DORV) and large inlet ventricular septal defect (VSD) and pulmonary stenosis (PS)”.

Furthermore, the medical board had opined that the patient may undergo medical termination at this stage due to severe congenital malformation of the fetal heart.

Though the Apex Court has held in **Suchita Srivastava and another Vs. Chandigarh Administration** 2009

(4) RCR (Civil) 258 that termination of pregnancy is the sole prerogative of the women and a pregnancy cannot be permitted to be terminated without her consent with the rider that medical practitioner is satisfied that continuation of the pregnancy would involve risk of life or grave injury to the mother of the child.

In the present case, the petition has been filed by the wife and it is duly stated at bar on her side that in view of medical complications life of petitioner No. 1 might be in danger and even fetus is malformed, thus, having regard to the willingness of the petitioner couple and the opinion of the medical board of the P.G.I. Chandigarh which is a reputed medical institution of the region and in the ends of justice to safeguard the mother petitioner No. 1 who might be oscillating between life and death and from further complicating her life necessitates that every endeavour needs to be made to meet the ends of justice.

In the light of the same, the present writ petition is allowed. The petitioners are at liberty to get the pregnancy of

petitioner No.1 aborted in the womb and ensure that it is done by specialist medical professionals as per the requirements laid down in the Medical Termination Act 1971 without use of any undue coercion and pressure upon the women upon obtaining her consent.

Office is directed to send the copy of this order without loss of time.

January 18, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No