IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.14537 of 2021
DATE OF DECISION : 10th AUGUST, 2021

Sharmila Devi & another

…. Petitioners

Versus

Union Territory of Chandigarh & others

…. Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court
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Present : Ms. Meenakshi Singh, Advocate for the petitioners.

None for respondent No.1.

Mr. Anil Kumar Sharma, Advocate for respondent No. 2.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of an appropriate of writ, order or direction, including a writ in the nature of mandamus directing the respondents to terminate the pregnancy of petitioner No.1 in view of the fact that child is suffering from Spinal Dysraphism, along with certain other prayers.

Vide order dated 03.08.2021, this Court had requested the Permanent Medical Board, PGIMER, Chandigarh (PGI) to carry out the medical examination of petitioner No.1 with following request:

"Let petitioner No.1 be examined by the Permanent Medical Board constituted at PGIMER, Chandigarh.

The Board is requested to furnish its opinion qua the development and problem of the fetus and also qua desirability of the termination of the pregnancy; before the next date of hearing."

Pursuant to the above said order, the report has been received from the PGI, which has categorically recommended the medical termination of the pregnancy in view of the conditions of the fetus. The report, prominently reads as under:-

1. *The patient is a 25 yrs old primigravida with hypothyroidism. As per the USG done on 04/08/2021 the period of gestation is 22 weeks and 2 days with single live intrauterine pregnancy* ***with posterior spinal dysraphism in sacral region with widening of interpedicular distance along with subcutaneous bulge in lower lumbar/sacral region and the spinal cord is low lying and tethered (closed neural tube defect).*** *This is an anomaly of spinal cord which requires surgery in infacncy (very early childhood). There may bladder bowel dysfunction in some, after surgery. Hence, this condition is not compatible with normal life.*
2. *The patient is mental stressed due to carrying a pregnancy wherein the fetus is affected with a congenital malformation and does not wish to continue this pregnancy.*
3. *The patient has been examined and found to be medically fit.*
4. *The board advises ultra sound guided injection of Potassium Chloride (KCI) into the fetal heart prior to abortion. This is as per the Royal College of Obstetricians & Gynaecologists (RCOG) guidelines (Termination of pregnancy for fetal abnormality, 2010), when medical abortion is performed after 21*

weeks +6 days of gestation for fetal abnormalities, ultrasound guided injection of Potassium Chloride into the fetal heart is advised prior to abortion to prevent a live birth.

5. *In view of the above, the Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage due to* ***posterior spinal dysraphism in sacral region with widening of interpedicular distance along with subcutaneous bulge in lower lumbar/sacral region and the spinal cord is low lying and tethered cord (closed neural tube defect)*** *which is not compatible with normal life. We also wish to bring to the knowledge of the Hon'ble High Court that the medical termination of pregnancy at an advanced gestation of 22 weeks+2 days carries more than the usual risks which have been explained to the patient.*

A perusal of the report of the Permanent Medical Board of the PGIMER, Chandigarh suggests that the patient may undergo medical termination of pregnancy at this stage due to **posterior spinal dysraphism in sacral region with widening of interpedicular distance along with subcutaneous bulge in lower lumbar/sacral region and the spinal cord is low lying and tethered (closed neural tube defect)**, which is not compatible with life.

In view of the above, the present petition is allowed. The petitioner No.1 is permitted to get the pregnancy terminated. The respondent No.2-PGIMER, Chandigarh may proceed further by adopting all the safety measures and procedural protocol, as recommended by the Medical Board.

Let the necessary procedure be carried out at the earliest possible so as to avoid any further complications and danger to the life of petitioner No.1.

10th AUGUST, 2021 **(RAJBIR SEHRAWAT)**
'raj' **JUDGE**

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*