

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP No.17942 of 2021

DATE OF DECISION : 16th SEPTEMBER, 2021

Heena

.... Petitioner

Versus

State of U.T. Chandigarh & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court
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Present : Mr. Hema Sharma, Advocate for the petitioner.

Ms. Aakanksha Sawhney, Additional Standing Counsel
respondent No.1-UT, Chandigarh.

Mr. Piyush Khanna, Advocate for respondent No.2.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226 of the Constitution of India seeking issuance of writ in the nature of mandamus directing respondent No.2 to medically examine the petitioner through its permanent medical board in confirming and/or assessing the status of the congenital brain malformation in the fetus of the petitioner, that is not only endangering to the survival of the fetus, but, would also be adverse to the life normalcy of the child, if born; and therefore medically terminating her pregnancy which is about 23 weeks and 6 days old.

Vide order dated 10.09.2021, this Court had requested the Permanent Medical Board, PGIMER, Chandigarh (PGI) to carry out the medical examination of the petitioner with following request:

“Let the petitioner 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; within three days.”

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 petitioner is a 23 yrs old multigravida with previous normal delivery 2 yrs back. As per the ultrasound done on 11/09/2021, the period of gestation is 22 weeks+1 day with single live intrauterine pregnancy weighing 433±64 gms with Dandy Walker Syndrome which is a congenital malformation of the fetal brain. The ultrasound also shows edema over abdomen and thorax, bilateral club with foot, cardiomegaly right atrial enlargement.
2. The patient is mentally stressed due to carrying a pregnancy wherein the fetus is affected with congenital malformation and does not wish to continue this pregnancy.
3. The patient has been examined and found to be medically fit.
- 4 The Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage in view of Dandy Walker Syndrome and multiple congenital malformations which has poor outcome and 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+1 days carries more than the usual risks which have been explained to the patient.
5. The board also 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.

6. The board advises that the doctors carrying out the medical termination of pregnancy perform fetal autopsy and genetic tests from fetal DNA, to guide the patient in her future pregnancies.

Hence, the board advises MTP in this case with the advice to be followed as listed above

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 Dandy Walker Syndrome and multiple congenital malformations.

In view of the above, the present petition is allowed. The petitioner No.1 is permitted to get the pregnancy terminated. The PGIMER, Chandigarh may proceed further for medical termination of pregnancy 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.

16TH SEPTEMBER, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>