

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

CWP No.18566 2021

Date of Decision: 20.09.2021

Kavita

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: - Dr. Anand Kumar Bishnoi, Advocate,
for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Shobit Phutela, Advocate
for respondent No.1-UOI.

Mr. Ashish Yadav, Addl. A.G., Haryana
for respondent No.2.

Mr. Anmol Partap Singh Mann, Advocate
for respondent no.3.

LISA GILL. J.

Though matters were being taken up through physical hearing mode today, this matter has been taken up through video conferencing on specific request of learned counsel and in terms of circular dated 14.09.2021.

Prayer in this writ petition is for permission for medical termination of pregnancy of petitioner.

Learned counsel for the petitioner while referring to Annexure P3 i.e., opinion of the doctors treating the petitioner at Government Medical College and Hospital, Sector 32, Chandigarh, submits that the foetus carried by petitioner has been diagnosed with medical problems, which make for a bad prognosis for carrying on with the pregnancy. However, the foetus is over 20 weeks old. Medical termination of pregnancy was thus not carried out.

Permanent Medical Board for Medical Termination of Pregnancy, PGIMER, Chandigarh, vide order dated 16.09.2021 in this writ petition, was asked to examine the petitioner for an evaluation for advisability of medical termination of pregnancy.

Report of Medical Board has been received in a sealed cover today. Same is opened and perused. Relevant observations of the Medical Board report read as under: -

- “1. *The petitioner is a 21yrs old primigravida. As per the ultrasound done on 17/09/2021, the period of gestation is 22 weeks with single live intrauterine pregnancy weighing 422 gms **with cleft lip, cleft palate, holoprosencephaly with small posterior fossa (malformation of the fetal brain) and ventricular septal defect (VSD)***
2. *The petitioner 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 petitioner has been examined and found to be anaemic with haemoglobin of 7.4gm/dl which will require correction before taking up the petitioner for MTP.*
4. *The Permanent Medical Board recommends that this petitioner may undergo medical termination of pregnancy at this stage in view of **holoprosencephaly with small posterior fossa (this is a malformation of the fetal brain) and ventricular septal defect (VSD)** which is not compatible with 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 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 petitioner in her future pregnancies.*

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

The Medical Board has recommended that patient/petitioner may undergo medical termination of pregnancy at this stage due to ***‘holoprosencephaly with small posterior fossa (this is a malformation of the fetal brain) and ventricular septal defect (VSD)’***, which is not compatible with life. It is further stated that as pregnancy is at an advanced stage of gestation, medical termination of pregnancy carries more than usual risks which have been explained to the patient.

Learned counsel for the petitioner submits that petitioner wishes to go ahead with termination of pregnancy. Report dated 18.09.2021 of the Board is taken on record, subject to just exceptions.

Keeping in view categoric opinion of the Permanent Medical Board for Medical Termination of Pregnancy, PGIMER, Chandigarh as above, medical termination of pregnancy of petitioner is permitted. Petitioner shall remain present at the office of the Medical Superintendent, PGIMER, Chandigarh tomorrow i.e., on 21.09.2021 at 10:00 AM for admission and necessary steps to be taken for medical termination of pregnancy.

Needless to say, due care and medical treatment be made available to petitioner. In case, petitioner needs any further care after the procedure or she is found eligible under any scheme, same be also provided to her. As per advice in report dated 18.09.2021, regarding performance of fetal autopsy and genetic tests from fetal DNA, necessary steps be taken.

Writ petition is accordingly disposed of.

A copy of this order be supplied under the signatures of Bench Secretary to learned counsel for the parties.

20.09.2021
Sunil

(LISA GILL)
JUDGE

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