

136

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

**CWP No.21497 of 2021
Date of Decision: 26.10.2021**

RAMNEET KAUR

.....Petitioner

Vs

**POST GRADUATE INSTITUTE OF MEDICAL EDUCATION
AND RESEARCH, CHANDIGARH**

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Vikas Malik, Advocate
for the petitioner.

Mr. Anmol Partap Singh, Advocate
for the respondent-PGIMER, Chandigarh.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred this petition for the issuance of an appropriate writ especially in the nature of mandamus directing the respondent-PGIMER, Chandigarh to medically examine her through its Permanent Medical Board to assess the status of the Serious Guarded Neurological Prognosis in her fetus.

On 22.10.2021, following order was passed by the Co-ordinate Bench of this Court:-

“This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of an appropriate

writ, order or direction especially in the nature of mandamus directing the respondent-Post Graduate Institute of Medical Education and Research, Chandigarh, to medically examine the petitioner through its Permanent Medical Board to assess the status of the Serious Guarded Neurological Prognosis in the fetus of the petitioner.

Learned counsel for the petitioner has submitted that gestation period of the fetus in the present case is 23 weeks and 5 days and has referred to reports (Annexures P-2 & P-3) to submit that it has been diagnosed with the presence of serious congenital defect identifiable as "Serious Guarded Neurological Prognosis" as per the ultrasound report dated 12.10.2021 and the same 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 on account of the same, the petitioner is keen for medical termination of pregnancy.

On asking of the Court, Mr.Amit Jhanji, Senior Advocate assisted by Mr. Abhishek Premi, Advocate has appeared on behalf the respondent-Post Graduate Institute of Medical Education and Research, Chandigarh, and has very fairly stated that a medical board would be constituted on 23.10.2021 for medical examination of the petitioner and in case the petitioner appears at 10.00 AM on 23.10.2021 in the office of Medical Superintendent, then she will be duly examined by the competent medical board.

In view of the above, the petitioner is permitted to appear before the Medical Superintendent of the respondent-Post Graduate Institute of Medical Education and Research, Chandigarh on 23.10.2021 at 10.00 AM, who will ensure that the Medical Board after medically examining the petitioner, gives its assessment report regarding termination of pregnancy of the petitioner. The

said report be submitted before this Court in a sealed cover on the next date of hearing.

List on 26.10.2021.

To be taken up in the urgent list.

October 22, 2021

Davinder Kumar”

(VIKAS BAHL)

JUDGE

In compliance of the aforesaid order, the petitioner has been medically examined by the Permanent Medical Board constituted for that purpose.

Today, the report of Medical Board has been received in a sealed cover. The report has been opened and is marked as Mark A-1. The same be tagged at an appropriate place with the petition.

According to the aforesaid report, following observations have been made by the Permanent Medical Board:-

*“1. The petitioner is a 24 yrs old primigravida. As per the ultrasound done on 25/10/2021, the period of gestation is 25 weeks+1 day with single live intrauterine pregnancy weighing 741±108 gms with **bilateral ventriculomegaly (it is the accumulation of fluid in the ventricles of the brain).***

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 medically fit. However, she has mild anaemia (Hb 9.4 g/dl) and urine albumin is ++. These need to be

investigated further.

4. *The Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage due to **bilateral ventriculomegaly which is a congenital malformation of fetal brain** which has poor fetal 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 25 weeks + 1 day carries more than the usual risks which have been explained to the petitioner.*

5. *The board also advises ultra sound guided injection of Potassium Chloride (KCl) 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.*

Hence, the board advises MTP in this case with the advise to be followed as listed above. The board also advises that the doctors carrying out the MTP perform fetal autopsy and generic tests from the fetal DNA, to guide the patient in her future pregnancies.”

Learned counsel for the petitioner submits that the petitioner has already given her consent for MTP i/v/o Guarded Neurological Prognosis.

As per observation dated 19.10.2021 by treating Doctor in PGIMER, Chandigarh, the MTP cannot be done without the court orders.

Petitioner is having pregnancy of more than 23 weeks. Now in view of report of the Medical Board, petitioner intends to appear before the respondent i.e. Medical Superintendent, PGIMER, Chandigarh on 27.10.2021 at 10.00 A.M., and is ready to fulfill all the necessary formalities for undergoing the MTP.

In view of above, petitioner is permitted to appear before the respondent i.e. Medical Superintendent, PGIMER, Chandigarh on 27.10.2021 at 10.00 A.M. On completion of all the necessary formalities, the respondent/PGIMER, Chandigarh shall undertake the necessary medical procedure.

Petitioner would be at liberty to espouse her financial status before the respondent/PGIMER, Chandigarh. In case, the plea of the petitioner is found to be in accordance with the prevalent schemes, the same shall be considered in accordance with the rules.

With this observation, this petition is disposed of.

October 26, 2021

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No