

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

10 WRIT PETITION NO.6036 OF 2022

**USHA AJAY GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND ANOTHER**

...

Advocate for Petitioner : Mr. Dinesh S. Chavan h/f Mr.Rajebhosale
Sandeep B.

AGP for Respondents-State : Mr. S.K.Tambe

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**CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.**

DATE : 17th JUNE, 2022.

PER COURT :

1. On 15.6.2022, after considering the circumstances set out in this case, we had passed the following order :

“1. By this petition, the petitioner prays for permission for medically terminating the pregnancy in the light of the report tendered by Dr. Asawari Purohit and Mr. Bimal Sahani dated 11.06.2022. After examination of the fetus the impressions are set out by the concerned doctors in the report.

2. The pregnancy can be terminated by the Registered Medical Practitioner, subject to the fulfillment of the conditions, set out under Section 3 of the Medical Termination of Pregnancy Act, 1971.

3. The learned A.G.P. for the respondent State, submits that there is a Committee of Medical Experts for this purpose under the 1971 Act and the petitioner can be referred to the said Committee.

4. Since the petitioner resides at Aurangabad and respondent No. 2 is the Government Medical College and Hospital at Aurangabad, we direct the petitioner to appear before the Committee at 11.00 a.m., on 16.06.2022. We direct the Committee to examine the petitioner, who would be accompanied by her husband along with his Adhar Card, and form an opinion as to whether the continuation of the pregnancy would involve risk to the life of the pregnant woman or cause grave injury to her physically or mentally, or is there any substantial risk if the child is born, the said child would suffer physically or mental abnormality as to seriously handicap the baby.

5. We direct the Dean of the Government Medical College and Hospital, Aurangabad to ensure that the medical report is delivered to this Court in a sealed envelope, addressed to the learned Registrar (Judicial), Aurangabad Bench of the Bombay High Court by 5.00 p.m. on 16.06.2022.

6. List this petition on the passing category on 17.06.2022.”

2. The report of the Medical Board for termination of pregnancy is submitted by way of a confidential report dated 16.06.2022, which we have perused. Copy of the said report is taken on record and marked as ‘X-1’, for identification. The opinion of the Medical Board on termination of pregnancy is as under :

Opinion by Medical Board for termination of pregnancy :

- a) Allowed.
- b) Denied X

Justification for the decision : Associated with such a fetal anomaly that if the child were born, it would suffer from such physical or mental abnormalities to be seriously handicapped.

Physical fitness of the woman for the termination of pregnancy : MTP may be done with due risk. With the present advanced gestational age, there is high possibility of surgical intervention, blood transfusion, and other unforeseen risk. The Hon. High Court is humbly requested to take undertaking of the said risk from the patient and her husband.

3. In view of the high possibility of surgical intervention, blood transfusion and other unforeseen risks due to the advanced gestational age, we called upon the petitioner and her husband to express as to whether they are willing to face the risk to the health of the woman who is to undergo the termination of pregnancy. The petitioner as well as her husband have placed before us their individual affidavits dt. 17.06.2022, which are taken on record and marked as 'X-2' and 'X-3' for identification. They have also declared that they are willing to sign on the consent forms as well as such forms which would be necessary while undergoing the termination of pregnancy in the Government Medical College and Hospital.

4. The learned Advocate for the petitioner submits that the petitioner would register herself with the concerned department at 10.00 a.m., along with her husband and by completing all registration procedures will be admitted to undergo the termination of pregnancy.

5. In view of the above, this petition is disposed off.

6. All the parties shall act upon the printout copy of this order, obtained from the Official Website of the Bombay High Court.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

mahajansb/