

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1014 WRIT PETITION NO.9439 OF 2022

X HANDICAPPED UNDER GUARDIANSHIP OF MOTHER KAVITA BALU
GANGAWANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

Advocate for Petitioners : Mrs. Kazi Sabahat T.
AGP for Respondent-State: Mr. P. S. Patil

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 21st September, 2022

PER COURT :

1. On 20/09/2022, we had passed the following order :-

"1. By this petition, the petitioner, who has appeared through her biological mother, has put forth prayer clause 'B' as under :-

"B. By issuing a writ of mandamus, or any other appropriate writ, order or direction in the like nature, the respondent No.2 may kindly be directed to forthwith complete the procedure of termination of pregnancy of the petitioner under the supervision of team of medical experts."

2. It is pleaded in the memo of the petition that the patient is 18 years and 4 months old. She suffered a physical offence and in the light of the same, an FIR has been registered in the Kotwali Police Station, Ahmednagar on 11.09.2022 invoking Sections 376, 376(2)(1), 323 and 506 of the IPC.

3. The mother of the victim as well as the petitioner are agreeable to have the victim examined by the Medical Board available with the Govt. Medical College at Aurangabad. As such, we direct that the petitioner/mother alongwith the victim would appear before the Medical Board at 10.00 a.m. on 21.09.2022 in the Govt. Medical College, Aurangabad for examination. We request the learned AGP to ensure that the Medical report is placed before us in a sealed envelope at 2.30 on 21.09.2022.

4. Stand over to 21.09.2022 at 2.30 p.m.”

2. The report of the Medical Board dated 21/09/2022 is placed before us. The same is marked as ‘X-1’ for identification. The Medical Board has permitted the termination of pregnancy taking into account that the gestational age of the foetus is 20 weeks and 1 day.

3. The learned Advocate for the petitioner submits that the victim and her mother would remain present in the Government Medical College and Hospital tomorrow at 10.00 a.m. After completing the necessary formalities, the victim would undergo the medical termination of pregnancy.

4. The learned AGP submits on instructions that the necessary KIT required for taking a sample of the terminated foetus for the purposes of forwarding it to the Forensic Lab, for carrying out DNA Test, is also kept ready. An officer from the concerned Police Station would remain present and would collect the sample immediately to be forwarded to the Forensic Lab. Necessary procedure as is prescribed under the Criminal Manual and any other provision applicable, would be strictly followed and there would be no laxity on this count.

5. In view of the above, this petition is disposed off. The mother of the petitioner would admit the petitioner in the Government Medical College and Hospital at 10.00 a.m. on 22/09/2022. Needless to state, the legal formalities to be completed by the Police Department and the procedure for the DNA Test, shall be followed scrupulously in order to ensure that there is no defect or deficiency which may be pointed out subsequently in criminal trial with regard to collection of evidence pertaining to the DNA Test.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

gawade/-.