

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.15861 OF 2022

Mrs. XYZ .. Petitioner.
v/s.
The State of Maharashtra .. Respondent.

Mrs. Shilpa Pawar, for the Petitioner.
Mr. P. P. Pujari, AGP for the Respondent-State.

**CORAM: MADHAV J. JAMDAR &
S.G.CHAPALGAONKAR,JJ.
(VACATION COURT)
DATED : 28th DECEMBER, 2022.**

PC:-

Not on board. Taken on board.

The Petitioner is 22 years old married housewife who has sought permission to terminate her pregnancy which is at 30 weeks and 2 days of gestation. It is Petitioner's case that there are severe abnormalities/ anomaly/ disorder in foetus. This Court by order dated 23rd December, 2022 had directed Medical Board of Dr. Vaishampyan Memorial Government Medical College, Solapur to conduct the examination of the Petitioner on 24th December, 2022. Accordingly, report dated 26th December, 2022 of the Medical Board of the said College is placed before us. The key findings as per the said report are extracted herein below:-

Sr. No.	Investigations done	Key findings
1	Obstetric USG:- (On 24/12/2022)	Single live viable fetus in cephalic at present (variable) with gestational age

		30 weeks 2 days oligohydroamnios 1) left kidney – 6*3.1 cm 2) right kidney not well appreciated – measures about 2.8*2.1 cm 3) both kidneys shows raised echogenicity with loss of CMD 4) multiple small cysts are noted in both kidneys 5) B/L possibly obstructive megaureters noted 6) Dolichocephalic head noted 7) Posterior urethral valve appears to be dilated given key hole appearance 8) Above f/s o likely bladder outlet obstruction likely due to posterior urethral valves with b1 obstructive megaureter with B/L dysplastic kidneys secondary to urinary obstruction.
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2 The medical board on the basis of above Key findings, opined as below:-

*“E-urinary Tract abnormalities – posterior urethral valve with bilateral hydronephrosis with severe oligohydroamnios
Others – Posterior urethral valves with B/L obstructive megaureter with B/L dysplastic kidneys secondary to urinary obstruction.
The prognosis of such condition though not life threatening is associated with severe morbidity.”*

3 The medical board has recommended termination. However, as the gestational age is more than 30 weeks, has set out certain precaution which are required to be taken while conducting the procedure.

4 In judgment delivered by the Delhi High Court in the case of ***Mrs. X v/s. GNCTD & Another*** reported in ***2022 (SCC) Online Delhi 4274***,

the Delhi High Court has considered the cases where medical termination was directed when the period of gestation was about 33 weeks, 34 weeks etc. In the said decision, it has been observed that an overall analysis of the judicial decisions referred in the said judgment shows that Court have permitted termination of pregnancy even at an advanced stage if substantial foetal abnormalities are detected in the foetus.

5 It is further significant to note that in the case before the Delhi High Court, the said Petitioner was in the thirty three weeks of gestation and the medical board has given negative opinion. As far as the present case is concerned, although the medical board of the said College at Solapur has mentioned about certain risks, however, in view of the anomaly in the foetus have recommended the termination of pregnancy.

6 Ms. Shilpa Pawar, learned Counsel appearing for the Petitioner submitted that she has taken instructions from the Petitioner and her husband. Both of them expressed that as there are serious anomalies in the foetus, the Petitioner has inclined for termination of pregnancy.

7 The Petitioner is from economically weaker section. There is no reason to deny the relief of medical termination.

8 In view of this, we pass the following order:-

- (i) We allow the Petitioner to undergo the medical termination of her pregnancy at Dr. Vaishampyan Memorial Government Medical College, Solapur. It is informed to us that the Petitioner is already admitted in the said College. The learned Counsel appearing for the Petitioner submits that risk involved in the procedure is already

informed to the Petitioner by the said College.

- (ii) In the event child is born alive and if parents of such child are not willing to or are not in a position to assume the responsibility for such child, then, the State and its agencies will have to assume full responsibility for such child and offer such child medical support and facilities as may be reasonably feasible, adhering always to the principle of best interests of such child as well as the Statutory provisions in the Juvenile Justice Act.
- (iii) Writ Petition disposed of. No costs.

(S.G.CHAPALGAONKAR,J.)

(MADHAV J. JAMDAR, J.)