

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15747 OF 2022

X

Since minor, through the natural
guardian, Father

..Petitioner

V/s.

V.M. Medical College, Solapur and
Shree Chhatrapati Shivaji Maharaj Sarvopchar
Rugnalaly, Solapur and Anr.

..Respondents

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Mr. Ulhas Nana Jadhav i/b Saloni Ghule for the Petitioner.
Mrs. M.P. Thakur, AGP for the Respondents.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 22 DECEMBER 2022

P.C.

. By this petition, the Petitioner is praying for permission to to take steps for termination of pregnancy of his minor daughter in Respondent No.1 hospital. It is the case of the Petitioner that his daughter is a victim of rape, who has been sexually assaulted by an accused. In view of the urgency of the matter, by our order dated 20.12.2022, we directed the medical examination of the Petitioner's daughter by a Medical Board of Resp. No. 1 consisting of medical experts, who have issued a report, after medical examination.

2. The learned counsel for the Petitioner placed on record a report dated 21.12.2022 of the Medical Board of Respondent No.1. The same is taken on record.

3. Perusal of the said medical report shows that the Board has found the Petitioner's daughter 26 weeks into pregnancy but, has recommended medical termination of pregnancy and has also given certain additional findings and observations which read as follows:

14. *Additional findings and observations:*

Record additional findings and observations here, if any (Also include any risk to the health of girl/ woman in case of continuation of pregnancy as well as termination):-

On examination gestational age is of 26 weeks, so, if decision of termination is taken, following complications can occur during delivery-

1) Delivery time is prolonged as she is 26 weeks gestation.

2) Patient may require surgical intervention and intra-operative and post-operative complications is similar to other surgeries.

3) According to USG done on 06/12/2022, the gestational age is 26 weeks 02 days, there are chances of survival of fetus requiring NICU admission and management.

4) *For mother in future pregnancy, chances of complications are more likely.*

5) *If patient requires surgical intervention, she becomes a High Risk Case of hysterotomy, so, in the next pregnancy, she can have chances of Uterine Scar dehiscence, scar rupture.*

The Physical fitness and recommendation is reported to be as follows:

15. *Physical fitness for termination: Yes.*

Recommendation by Medical Board for termination (choose one and provide any additional recommendations of the panel in the box below if any):-

Recommended-(if yes,-Please mention the methods):- Tab, Misoprostol 200 mcg per vaginally 6 hourly.

Key recommendation of the panel (if any) with justification :-

Unmarried primigravida with 26 weeks 2 days gestation with alleged history of sexual assault wanting for termination of pregnancy.”

4. The learned counsel for the Petitioners placed reliance on the order of this Court passed in Writ Petition No. 15057/2022 dated 13.12.2022. In the said order this Court has also considered similar order dated 28/09/22 passed by this Court in ***Writ Petition (L) No. 30453 of 2022*** in which medical termination of

32 weeks pregnancy was allowed as also a Judgment of the Division Bench of this Court in ***Writ Petition No. 10835 of 2018***¹

5. Heard Mrs.Thakur, the learned AGP for the State.

6. We have perused the judgments relied upon by the Petitioners. We have perused the report submitted by the medical board along with additional findings and recommendation which shows that there are chances of complications for the mother in future. Petitioner's daughter who is about 14 years of age, is stated to be victim of sexual assault who is a minor. It is urged that she must have gone through trauma and anguish causing grave injury to her mental health, in the peculiar facts.

7. Therefore we pass following order:

ORDER

(i) The Petitioner's daughter is permitted to terminate her pregnancy at Respondent No.1 V.M. Medical College, Solapur and Shree Chhatrapati Shivaji Maharaj Sarvopchar Rugnalaly, Solapur in Solapur, after the Petitioner, being her guardian, signs written consent for the same.

(ii) The medical team who would be performing the termination of pregnancy shall take utmost care while carrying out the termination and more particularly regarding the findings and observation made by the Board.

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(iii) In the event, the child being born alive, the medical team conducting procedure shall ensure all the necessary facilities are made available for saving his/her life.

(iv) In view of the facts of this case, in the event, the child being born alive and the Petitioner's family is not willing to take responsibility of such child, the State and its agencies will have to assume full responsibility for such child.

(v) The Petitioner's daughter can remain present for further procedure/examination tomorrow at 3.00 p.m.

(v) Petition is allowed in above terms.

8. The learned AGP to convey this order to Respondent No.1.

M.M.SATHAYE, J.

R.D.DHANUKA, J.