

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

WRIT PETITION NO.8025 OF 2022

**SWAPNIL MADHAVRAO MANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH DEPARTMENT OF
HEALTHSERVICE AND ANOTHER**

...
Advocate for Petitioner : Mr. Gandhi Amol S.
AGP for Respondents/State: Mr. S. B. Yawalkar
...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 04.01.2023

PER COURT:

Heard.

2. The petitioner's application seeking to add some additional facilities in his hospital under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Rules framed thereunder has been rejected by the impugned order on the ground that an appeal has been pending against him in respect of a crime under the same Act.

3. Writ Petition No.6323/2019 filed by the petitioner in respect of a similar set of facts was decided by this Court on 01.10.2019, wherein also, the additional facility was refused only on the ground of pendency of the appeal. The order was quashed and set aside.

4. It is indeed surprising that in spite of such observations of this Court, the respondent-authority has once again, may be in respect of some other permission has resorted to the same reasoning and the petitioner's application has been rejected only because of the pendency of the appeal. The order is indeed unsustainable.

5. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent no.2 shall decide the petitioner's application afresh on its own merits, but shall not reject it on the ground of pendency of the appeal.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer