

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

WRIT PETITION NO.6195 OF 2023

Seema Harish Kale

...Petitioner

v/s.

State of Maharashtra

Through the Principal Secretary

& Anr.

...Respondents

...

Mr. Vinayak Patil i/b. Ajinkya M. Udane for the petitioner.

Mr. B. V. Samant, AGP, for respondent no.1.

Ms. Purnima Awasthi for respondent no.2.

...

**CORAM : AMIT BORKAR AND
KAMAL KHATA, JJ.
(VACATION COURT)**

DATED : 9TH MAY 2023.

P.C. :

1. The petitioner is seeking a direction to ensure termination of her pregnancy under the provisions of Medical Termination of Pregnancy Act, 1971 as the continuance of pregnancy would involve risk of her life. The period of pregnancy was 28 weeks on the date of filing the petition.

2. This Court by order dated 4th May 2023 directed the Committee of Experts to submit a report as to whether the continuation of pregnancy would involve risk to the life of the petitioner or would cause injury to her physical or mental health. In pursuance of the said direction, the Committee of seven Doctors and a Social Service Superintendent has recommended termination subject to delivery complications. The relevant portion of the recommendation by the Committee is extracted as under:

- “1. Delivery time is prolonged as she is 29/4 weeks gestation.*
- 2. Patient may require surgical intervention and intra-operative & post operative complications is similar to other surgeries”*
- 3. According to USG done on 30/11/2022, the gestational age is 29/4 weeks and so, there are chances of survival of fetus requiring NICU admission & 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.”*

3. On perusal of the said report, the Advocate for the petitioner was given a copy of the report and was called upon to inform the petitioner and make her aware of the risk stated in the Committee’s

recommendation. The matter was kept back for the same and mentioned again. The Advocate for the petitioner informed us that he has made the petitioner aware of the risk involved. and stated that despite such risk, the petitioner has requested for termination of pregnancy.

4. The right of petitioner to seek termination of medical pregnancy is no longer *res integra* in view of reported judgment of this Court in Writ Petition (St) no.1375 of 2023.

5. In the facts of the case, we are satisfied that the continuation of pregnancy of the petitioner would involve risk of her life or cause grave injury to her physical and mental health. We, therefore, pass the following order;

(i) The petitioner is permitted to undergo procedure of Medical Termination of Pregnancy as per Medical Board's opinion dated 6th May 2023 at Civil Hospital, Solapur.

(ii) In case the child born out of procedure is alive, the Civil Hospital, Solapur, conducting the procedure shall ensure that all necessary facilities are made available to such child for saving its life.

(iii) In case the child is born alive, the State Government and its agencies shall assume full responsibility for such child.

(iv) Petition is disposed of in the above terms.

(v) S.O. to 12th June 2023 for compliance.

(KAMAL KHATA, J.)

(AMIT BORKAR, J.)