

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

WRIT PETITION NO.10755 OF 2023

Mrs. XYZ
Mother of XYZ

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Ajinkya M. Udane for the Petitioner

Ms. M. P. Thakur, A.G.P for the Respondent No.1 – State

Ms. Purnima Awasthi for the Respondent No.2 – UOI

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.
THURSDAY, 31st AUGUST 2023**

(IN CHAMBER - THROUGH VIDEO-CONFERENCING)

P.C :

1 By this petition, the petitioner seeks termination of the pregnancy of her daughter, who is aged 15 years 9 months, a victim of sexual assault.

2 Vide order dated 29th August 2023, we had directed the respondent No.3 – Dean/Medical Officer In Charge, District Hospital, Satara, to forthwith constitute a Medical Board in terms of Medical Termination of Pregnancy (Amendment) Act, 2021 r/w Medical Termination of Pregnancy Act, 1971 for examining the petitioner's daughter, who is 28 weeks 4 days pregnant. Pursuant thereto, the Medical Board examined the petitioner's daughter and submitted a report on 30th August 2023. Since in that one-line report, it was stated that the termination of pregnancy can be done $\bar{c}$ due risk, we thought it appropriate to direct the learned A.G.P to take instructions as to what was meant by due risk. Accordingly, learned A.G.P stated that the risks were, possibility of operative delivery/LSCS; possibility of Postpartum Haemorrhage; infection, septicemia; retained placenta or placental bits and subinvolution.

3 Learned counsel for the petitioner submitted that the report was not a detailed report and hence, the matter was kept

today at 10:15 a.m and VC Link was directed to be provided to the parties, including to the petitioner and the Civil Surgeon, Satara. When we disclosed what was stated in the report, the Civil Surgeon, Satara stated that the petitioner's daughter would be re-examined to see whether she was fit for medical termination of pregnancy, physically and mentally and would accordingly submit a report at 2:30 p.m. today.

4 Pursuant thereto, learned A.G.P has tendered a report of the said Committee dated 31st August 2023, duly signed by the Civil Surgeon and other doctors of the Medical Board. The photocopy of the said report which was tendered to us in a sealed envelope is taken on record, after opening the envelope. In the said report, the Committee has opined as under:

“The Committee is of opinion favouring termination of pregnancy & at present Patient is fit for medical termination of pregnancy physically & mentally.”

5 Considering the aforesaid report of the Committee, we allow the petitioner's daughter to terminate her pregnancy. Accordingly, the Civil Surgeon, Satara, to perform the procedure of termination at the earliest.

6 However, in the event, the petitioner's daughter gives birth to a live child, the Civil Surgeon, Satara conducting the procedure, shall ensure that all necessary facilities are made available to the child for saving its life and that the State Government will ensure that its agencies assume full responsibility of the said child, if so born alive.

7 Since it is the case of alleged sexual assault registered as C.R. No. 392/2023 with the Satara Taluka Police Station, for the alleged offences punishable under Sections 376, 376(2)(n), 506, 4 and 6 of the Indian Penal Code and under Section 6 of the Protection of Children from Sexual Offences Act, the hospital authorities shall preserve the DNA samples of the

mother and the fetus and handover the same to the investigation agency.

8 Petition is disposed of with the above directions.

9 Matter to be listed on **8th September 2023**, for compliance.

10 All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.