

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

CIVIL WRIT PETITION NO.12311 OF 2023

XYZ

...Petitioner

Versus

State of Maharashtra and Anr.

...Respondents

Mr. Hare Krishna Mishra, for the Petitioner.

Mrs. M. P. Thakur, A.G.P for the Respondents – State.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 6th OCTOBER 2023

P.C. :

1. By this petition, preferred under Article 226 of the Constitution of India, the petitioner seeks termination of her pregnancy, which is about 24 weeks, on the premise that the fetus suffers from certain anomaly.

2. On 4th October 2023, in view of the urgency we had granted production to the learned counsel for the petitioner of the aforesaid petition. On the said day, learned counsel for the petitioner

had submitted that since the fetus is about 23-24 weeks, the Hospital has sought an order from the Court. Learned counsel had also relied on the medical reports annexed to the petition, to show that there is a cyst.

3. Pursuant thereto, vide order dated 4th October 2023, we directed the respondent No. 2-J.J. Hospital, Mumbai, to forthwith constitute a Medical Board, in terms of the Medical Termination of Pregnancy (Amendment) Act, 2021 r/w the Medical Termination of Pregnancy Act, 1971 for examining the petitioner.

4. The petitioner was to report before the Board on 5th October 2023 at 10:30 a.m, so as to enable the Board so constituted to examine the petitioner and to submit a report to this Court. Accordingly, the petition was directed to be listed today i.e. 6th October 2023.

5. Pursuant to the said order, we have received the report of the Medical Board as well as a letter of the Associate Professor and

HOD, Department of Obstetrics and Gynaecology, GGMC & Sir J.J. Group of Hospitals, Mumbai, addressed to the Dean, GGMC & Sir J.J. Group of Hospitals, Mumbai, dated 5th October 2023. In the said letter dated 5th October 2023 addressed to the Dean, it is stated that the patient had come to them, pursuant to which USG was done and it was noticed that there was no lethal congenital anomaly in the said scan. Accordingly, the patient was advised Paediatric surgery and Neurology reference. It is noted in the said letter that there is gross discrepancy in the two ultrasound reports and that the patient did not follow up with the review USG (Obstetrics) and all the advised references. It is further stated in the said letter that there is no mention of denial of MTP or need for High Court order verbally or on paper by Department of Obstetrics & Gynaecology and that incorrect information regarding the advise of MTP was conveyed, thereby maligning the image of JJ Hospital. The said letter is taken on record. As far as the Medical Report of the petitioner is concerned, it appears that the petitioner was examined by various Heads of Departments. In the Committee opinion, it is stated as under:-

“COMMITTEE OPINION

After thorough investigation and examination of the patient, the committee has found that at present the mother is 23 years old, married with 24.3 weeks of gestational age with no congenital anomaly in the fetus.

At present the committee is of the opinion that there is no need to undergo Medical Termination of pregnancy as it is a non lethal anomaly.

However, the final opinion regarding MTP will be taken by Honorable High court.”

6. The said Medical Report is also taken on record.

Considering the aforesaid report of the Medical Board, the question of permitting the petitioner to undergo MTP, does not arise.

7. The petition stands dismissed and is accordingly disposed of.

GAURI GODSE, J.

REVATI MOHITE DERE, J.