

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

WRIT PETITION NO.13675 OF 2023

XYZ

...Petitioner

Versus

The State of Maharashtra
Through The Principal Secretary
Public Health Department,
Mantralaya, Mumbai-23

...Respondent

Ms. Snehal Chaudhari, for the Petitioner.

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

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

DATE : 2nd NOVEMBER 2023

P.C. :

At 10:00 a.m.

1. The aforesaid petition was taken up at 10:00 a.m. having regard to the urgency and accordingly we passed the following order:-

“1. This is a petition filed by the petitioner seeking termination of her 24.6 weeks pregnancy.

2. Although, learned Counsel for the petitioner relied on the report of the Medical Board, which is on page 23 of the petition, which recommends termination of the petitioner’s pregnancy for the reasons set out in the

report i.e. finding of anomalies in the fetus, learned A.G.P states that let the petitioner again appear before the Medical Board as constituted under the MTP Act, in order to enable her to do the test again, today, if required, during the course of the day.

3. We do not understand when already there is a report at page 23 given by the Medical Board, why the petitioner should be required to go do a second assessment by the same board of the Sir J. J. Hospital. Learned A.G.P to answer the same on the next date.

4. The said report of the Medical Board to produce before us tomorrow i.e. on **3rd November, 2023 at 2.30 p.m.**”

At 2:30 p.m.

2. At around 1:30 p.m., the learned AGP mentioned the aforesaid petition and requested that the aforesaid petition be heard today itself at 2:30 p.m, since she has received a communication from J.J. Hospital, Mumbai, dated 2nd November 2023. The learned AGP has produced the said letter dated 2nd November 2023 addressed by the Associate Professor and HOD, Department of Obstetrics and Gynaecology, GGMC & Sir J.J. Group of Hospitals, Mumbai, to the Dean, GGMC & Sir J.J. Group of Hospitals, Mumbai. The same is taken on record. In the said letter dated 2nd November 2023, it is

stated as under:-

“This is to bring to your kind information that we have already given medical board opinion in favour of termination no further documentation is required.

You are hereby requested to inform the High Court accordingly.”

3. It is pertinent to note that to the petition is annexed the report of the Medical Board, as contemplated under the Medical Termination of Pregnancy Act (Form D). The said report is at page 23 of the petition. In the said Medical Report, the Radiologist, Pediatric doctor, Psychiatrist, Obstetrics and Gynaecologist, General Medicine doctor and Neurosurgeon, have all given their opinions. In the findings of the Radiologist, it is stated that ‘Intrauterine pregnancy present with defect of about 1.3cm is seen in the occipital region with herniation of brain contents thought it s/o encephalocele with both lateral ventricles are grossly dilated measuring about 1.9cm o. Either side s/o ventriculomegaly with Cavum septum pellucidum seen.’ The finding of the Pediatric doctor is that ‘As this congenital anomaly is incompatible with life and increased risk of morbidity and

mortality, medical termination of pregnancy can be permitted with due risks.’ The finding of the Neurosurgeon is that ‘This condition has severe morbidity and mortality risk. Hence MTP can be advised.’

4. It appears that additional investigations have also been done and thereafter, a finding has been recorded by the Medical Board stating therein, that in view of the fetal anomaly, which suggests occipital encephalocele with bilateral ventriculomegaly with dangling choroid plexus with absent Calum septum pellucidum with absent corpus callosum with hyperplasia cerebellum with hypoplastic vermian, termination of pregnancy be allowed.

5. Considering the Medical Report, we permit the petitioner to undergo Medical Termination of pregnancy (‘MTP’).

6. The petition is accordingly disposed of.

7. At this stage, learned counsel for the petitioner states that the petitioner will get herself admitted to J.J. Hospital, Mumbai, today itself, to enable her to undergo the said procedure.

8. Stand over to **9th November 2023**, for compliance of the aforesaid order.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.