



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

WRIT PETITION NO. 1463 OF 2024

**X SINCE MINOR THROUGH HER FATHER GUARDIAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH POLICE INSPECTOR
AND ANOTHER**

....

Mr. Mahesh S. Bhosale, Advocate for Petitioner
Mr. R. S. Wani, AGP for Respondent – State

....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRADE, JJ.**

DATE : 08.02.2024

PER COURT :-

1. On 07.02.2024, we had passed the following order:-

“1. On 05.02.2024, we had passed the following order:-

“1. The date of birth of the Petitioner (whose identity has not been disclosed) is 21/09/2008. Her father has lodged a First Information Report. The concerned girl has refused to divulge the name of the person. She insists that, she remembers nothing. The parents contend that, she is a normal child and is in the 10th Standard. The girl belongs to the Mohammedan religion. The sonography report dated 23/01/2024 from a local sonography centre indicates that, the foetus is absolutely normal and the

gestational age of the foetus is 23 weeks and 05 days as on 23/01/2024.

2. *In view of the above, we direct Respondent No.2/Dean of the Swami Ramanand Tirth Rural Government Medical College, Ambajogai, Dist. Beed, to carry out a medical examination of the girl, who will be accompanied by either of her parents, at 11.00 a.m. on 06/02/2024. The parents would fill in a form and complete the formality and the identity of the girl would not be disclosed.*

3. *We direct the Medical Board of the Government Medical College to submit a specific report on the following points:-*

- (a) Whether the growth of the foetus in the womb of the girl is normal;*
- (b) Whether the Medical Board apprehends any deformity or abnormality;*
- (c) Whether the foetus carries a beating heart;*
- (d) The age of the foetus in weeks, as well as in days; and*
- (e) Whether a live child is likely to be delivered if the pregnancy is terminated?*

4. *Let such report be transmitted by the Medical Board through E-mail to the office of the learned Government Pleader at Chhatrapati Sambhajinagar, by tomorrow 6:00 p.m.*

5. *List this Writ Petition on 07/02/2024 in the 'passing orders' category."*

2. The learned AGP has placed before us the medical report dated 06.02.2024 issued by the Swami Ramanand Teerth Rural Government Medical College, Ambajogai, Dist. Beed (comprising of 9 members). The same is marked as X-1 for identification. The report indicates that the growth of the foetus is absolutely normal and today the foetus is of 26 weeks. There is no abnormality or deformity. The foetus carries a beating heart as per the USG scan. If, the pregnancy is to be terminated by medical intervention, a live baby will be born after delivery, though it may be incapable of independent survival.

3. The risk factors for the would be mother are set out as under:

“A] Medical board has explained the risk involved in the procedure to the patient and her relatives.

B] She may have risk of various complications if she undergoes termination of pregnancy like-

1. Hemorrhage
2. Failure of abortion
3. Need of surgical method (Hysterotomy)
4. Incomplete abortion
5. Sepsis
6. Maternal death
7. Need of the blood transfusion
8. Pulmonary Oedema/embolism.

4. The learned Advocate for the guardian of the would be mother, sought a pass over to take instructions. After the matter was called out, he submits on instructions that the father is willing to take care of the girl for one month and thereafter would deliver her to the shelter home at Aurangabad.

5. *The learned AGP submits that it would be appropriate for the guardian father to file an affidavit in this Court declaring that there would be no threat to the victim and she would be properly nurtured. The learned Advocate for the Petitioner submits that he would consult to the Petitioner / guardian father and if he is agreeable, would tender the affidavit tomorrow.*

6. *Stand over to 08.02.2024, for passing orders.”*

2. The learned Advocate for the biological father of the girl submits on instructions that the father desires that the girl should be placed in a shelter home at Aurangabad. The learned AGP graciously submits that, as this Court has recorded in the order dated 20.06.2023 in Writ Petition No.6340 of 2023, the safety and well being of the girl can be secured by following the same procedure. The learned Advocate for the biological father submits that, after the child is born, the same would be given up in adoption after the child has spent appropriate time with the mother.

3. In view of the above, **this Writ Petition is disposed off.** The ‘would be mother’ would be admitted to the Government’s Savitribai Mahila Rajyagruha at Aurangabad. Her father and her mother will drop the child to the said shelter home. The Petitioner

submits that the girl child would be admitted to the shelter home on 12.02.2024.

4. We direct the Dean of the Government Medical College and Hospital (GMCH), Aurangabad, to monitor the health of the 'would be mother' by appointing a female psychologist and a female gynaecologist to make routine visits to the shelter home and provide proper medical assistance to the 'would be mother'. If required, she would be treated in the GMCH, Aurangabad. The delivery of the child would also be performed at the GMCH, Aurangabad. The 'would be mother' shall be registered with the GMCH for the said purpose.

5. Besides medical assistance, all other facilities as are normally made available to the inmates of the shelter home, especially for the pregnant woman, would be extended to the concerned 'would be mother'.

6. We make it clear that neither the parents, nor the 'would be mother', would be charged with any fees or medical expenses and the said expenditure shall be incurred by the State exchequer.

7. The Child Welfare Committee at Aurangabad, would also make routine visits to the shelter home and keep contact with the 'would be mother'. The said organization would, after the birth of the child (and after spending the requisite period with the mother), would initiate steps for listing the child for adoption through their agency.

8. Needless to state, we permit the biological mother of the victim/would be mother to meet her in the shelter home as and when desired. The shelter home shall maintain a register regarding the visits of the mother.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS