

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.5393 OF 2024

Mrs.XYZ, Age 17 years, R/o.Alandi, Padmavati Road, Sathe Nagar Slum, Near Ganesh Temple, Tal.Khed, Pune.	Petitioner
versus	
The State of Maharashtra	Respondent

Ms.Shilpa Pawar, Advocate for Petitioner.
Mrs.M.P.Thakur, AGP, for State.

CORAM : PRAKASH D. NAIK AND
N.R.BORKAR, JJ.

DATE : 12th April 2024

PC :

1. Petitioner seeks termination of her pregnancy under Sections 3(2)(b) and 5 of Medical Termination of Pregnancy Act.
2. Petitioner contends that she is pregnant for 28 weeks. She is HIV seropositive and her foetus exhibits skeletal anomalies with the possibility of genetic abnormalities, as observed by Professor of B.J.Medical College and Sassoon General Hospital, Pune in ward no.22 and is victim of child marriage. Petitioner has relied upon report of Department of Obstetrics and Gynaecology, B.J.Medical College and Sassoon General Hospital, Pune. Petitioner has placed on record communication dated 5th April 2024 addressed to the Member Secretary, High Court Legal Services Committee issued vide District Legal Services Authority Pune for obtaining permission from this Court for medical termination of pregnancy of Petitioner and another letter dated 5th April 2024 forwarded by Child Welfare

Committee, Pune to District Legal Services Authority, Pune regarding request to the High Court for permission for termination of pregnancy.

3. This petition was listed before us on 8th April 2024 and on the same day we had directed the Medical Board constituted under MTP Act to examine the Petitioner and submit report regarding termination of pregnancy.

4. The report dated 5th April 2024 with covering letter dated 10th April 2024 is received by Registry of this Court. We have perused the report. We have also permitted learned advocate for Petitioner and learned AGP to peruse the report. Learned AGP submitted that report was prepared on 5th April 2024 and it was forwarded to this Court vide covering letter dated 10th April 2024 pursuant to directions of this Court dated 8th April 2024. Petitioner was admitted in B.J.Medical College and Sassoon General Hospital, Pune on 21st March 2024 and upon noticing anomalies, Petitioner was examined and report was kept ready on 5th April 2024.

5. The report of B.J.Medical College and Sassoon General Hospital, Pune states that Ultrasonography was carried out at Sassoon General Hospital on 21st March 2024 which showed single live intrauterine fetus of 24 weeks 04 days with variable lie. Placenta – posterior, Liquor – Adequate, Both upper limb shows absent radius bone with hypoplastic ulna Both wrist in fixed flexed deformity. Left hand shows absent thumb right hand has 5 digits. Suggestive of radial ray anomaly type 4. The Ultrasonography was also done at Umarji Mother and Child Care Clinic, Pune on 26th March 2024, which indicate that Single Live intrauterine fetus of 27 weeks 3 days. Variable lie, Placenta – Anterior, Liquor – Adequate, Early onset

severe fetal growth restriction. Both the riddi are not visualised with bilateral ulnar hypoplasia. There is radial deviation of both the hands with consistently flexed wrist. Thumb is not visualized in left hand. Features of Radial ray anomaly type 4. Syndactyly of 3rd and 4th figure of left hand. Abnormal cardiac offset with Muscular VSD. Uterine artery PI shows increased resistance flow mean uterine artery PI is above 95th centile. Possibility of genetic abnormality likely.

6. Opinion by Medical Board for termination of pregnancy is that termination is allowed. Justification for the decision is as follows :

“In this 17 year old underage married female Primigravida, gestational age By date (27+5) and By scan (26+5) (10+3), with seropositive status and multiple fetal defects with highly likelihood of syndromic association. Hence termination of pregnancy is granted on the basis of mental and medical situation of the patient.

7. The report states that Petitioner is fit for termination of pregnancy. The report is signed by members of Medical Board who received the case history. The report is taken on record and marked “X” for identification.

8. Considering the fact that Medical Board has noted that Petitioner is 17 years old under age married female Primigravida, gestational age By date (27+5) and By scan (26+5) (10+3), with seropositive status and multiple fetal defects with highly likelihood of syndromic association, termination of pregnancy is is granted on the basis of mental and medical situation of the patient, we allow the

Petitioner to undergo termination of pregnancy.

ORDER

- (i) Writ Petition is allowed and disposed off;
- (ii) Petitioner is permitted to undergo termination of pregnancy.

(N.R.BORKAR, J.)

(PRAKASH D. NAIK, J.)

MST