



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO. 4843 OF 2025

XYZ

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Mr. Undre Vikram Shivaji

AGP for Respondents: Mr. R.K. Ingole

CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 09.04.2025

PER COURT :

Pursuant to the directions issued yesterday, the petitioner has undergone a medical examination before the Medical Board constituted under the Medical Termination of Pregnancy Act, 1971 and the Rules thereunder.

2. The learned A.G.P tenders across the bar the original report in 'Form D', dated 09.04.2025 giving a positive opinion for termination of the pregnancy with following justification:

"Justification for the decision :

As per psychiatry expert opinion, in view of psychosocial circumstances it is anticipated that the examinee is likely to land up in the disturbed mental health condition if this pregnancy is continued, hence it is recommended to terminate the pregnancy."

3. We have heard both the sides. The petitioner is carrying a pregnancy of 26 weeks and 6 days with no significant anomaly.

4. However, the petitioner is barely 21 years of age, already having a

child. As is being pointed out, unfortunately she lost the husband in a road accident, which occurred on 01.03.2025. The justification for the Medical Board referred to herein above is apparently in tune with explanation 1 to Clause (b) of sub section (2) of Section 3. Strictly speaking, considering the wording of clause (b) it is applicable in respect of pregnancy exceeding twenty weeks but not exceeding twenty four weeks. However, in our considered view, by analogy that explanation can be taken recourse to, which reads as under :

“Explanation 1- For the purpose of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2- For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.”

5. If explanation 1 and 2 are considered in conjunction, it does appear that the decision to grant permission for termination of pregnancy takes into account *inter alia* mental condition of the would be mother in all probability because she will have to thereafter bring up the child.

6. As is discussed herein above, the petitioner has become a widow at the age of 21 years and having already a child to maintain. When the psychiatrist has offered aforementioned justification substantiated by the opinion of the Medical Board, in our considered view, there being no other impediment, the application deserves to be allowed.

7. The application is allowed.

8. Permission is granted to the petitioner to terminate the pregnancy at Civil Hospital, Dharashiv, which shall be performed at the earliest.

(PRAFULLA S. KHUBALKAR J.)

(MANGESH S. PATIL, J.)

mkd/-