

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

WRIT PETITION NO.11321 OF 2025

Ms. XYZ

.....Petitioner

Vs.

1. The State of Maharashtra
Through the Principal Secretary,
Public Health Department, Mantralay,
Mumbai – 400 023.

2. Seth V.C. Gandhi & M.A.Vora
Municipal General Hospital owned and
maintained by Municipal Corporation of
Gr. Mumbai having address at 3, 7th road
Rajawadi Colony Ghatkopar East,
Mumbai – 400 077.

.....Respondents

Mr. Santosh Maske a/w Ms. Priyanka Maske, for the Petitioner.
Mrs. M. P. Thakur, AGP, for the Respondents-State.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATED : 25th AUGUST 2025.

P.C.:-

1. The Petitioner, a minor of 15 years of age, is in the 32nd week of pregnancy, being a victim of child abuse. There is an FIR filed against the accused in the said crime. She seeks permission for medical termination of the pregnancy.
2. By Order dated 21st August 2025, this Court had directed the Dean of Sir J.J. Group of Hospitals, Mumbai, to constitute a

Medical Board in terms of the Medical Termination of Pregnancy (Amendment) Act of 2021 ('MTP Act') to examine the Petitioner and submit a report to this Court.

3. Accordingly a Medical Board was constituted and its report dated 25th August 2025 is placed before us. We have perused the Report. It is taken on record and marked 'X' for Identification. The Report is unanimous.

4. The conclusive Committee opinion is as under:-

“AFTER CAREFUL EXAMINATION AND STUDY OF ULTRASONOGRAPHY REPORTS, THE OPINION AS PER:

1. OBSTETRICS AND GYNAECOLOGY :If the Honorable High Court opines in favour of termination of pregnancy, then maybe carried out in the interest of psychological health of mother & to prevent any irreparable grave damage to her mental status if she is forced to continue her pregnancy against her will.

2. RADIOLOGY. Single Live intrauterine gestation of mean gestational age 31 weeks and 4 days (+/- 2 weeks) with Cephalic presentation Fundo anterior placenta EFW-1761gms with normal AFI & Doppler study.

3. PAEDIATRICS: As fetus has crossed more than 24 weeks of gestation, fetus may be live-born and relatives have been counselled that fetus may require NICU support. Medical termination of pregnancy can be permitted with due risk.

4. PSYCHIATRY: patient is not suffering from any psychiatric illness No contraindication for medical termination of pregnancy from psychiatric side.

5. MEDICINE: Patient is fit for medical termination with due risk & final decision under anesthesia & treating doctor.”

5. Mr. Santosh Maske, learned counsel appears for the Petitioner and Mrs. M. P. Thakur, learned AGP represents the State.

6. Mr. Maske states that, the minor being only 15 years of age, is unable and unwilling to take the delivery to its full term. Ms. Thakur submitted that appropriate orders in the interest of justice may be passed considering the findings and opinion of the Medical Board.

7. Since the Petitioner is in the advanced stage of her pregnancy, we deemed it appropriate to interact with the doctors personally through VC. Hence we kept the matter in the chambers.

We interacted with the doctors concerned of the Medical Board. The Counsel of the Petitioner as well as the AGP was present. The Petitioner's mother was also present during the interaction.

8. Dr. Pophale, Associate Professor and Head of Obstetrics and Gynecology of the Sir J.J. Hospital conveyed to us the opinion of the Board that considering the Petitioner's advanced stage of pregnancy and although the Board had left it to the Court to take a decision based on their report, it will be in the interest of the Petitioner and the fetus that she continues the pregnancy. The fetus is almost fully grown and is likely to be born alive. The fetus will need NICU support. Although the Petitioner is fit to undergo the procedure, it will be in the interest of both the mother and the child that the fetus is permitted to complete the full term so as to avoid the risks and hazards of pre-term birth on the Petitioner as well as the child. In any case the fetus is fully formed and the balanced term is only of approximately 4 to 6 weeks.

9. Conscious of the right of the Petitioner to reproductive freedom, her autonomy over the body and her right to choice, in this particular case we deem it appropriate to concede to the experts' opinion and having considered the findings and opinion of the

Medical Board, especially during the interaction with the doctors, we deem it appropriate to refuse permission to the Petitioner to medically terminate the pregnancy. Since the term of the pregnancy is beyond 32 weeks, in any case the statute does not permit termination of pregnancy at such an advanced stage and the present circumstances also do not fall within the scope and ambit of the exceptions provided under the statute as well as the Rules made thereunder. Considering the experts' opinion, we are not inclined to exercise our discretion and powers under Article 226 of the Constitution of India to allow the Petitioner to terminate the pregnancy. Hence we pass the following order:-

10. In these facts and circumstances, we issue the following directions:

- i) The Petitioner's prayer seeking permission to terminate the 31 week pregnancy is rejected in view of the experts' opinion during their interaction with us.
- ii) The Authorities of Sir J.J. Hospital state that they are ready and willing to continue the admission of the Petitioner in the said Hospital. They are also willing to look after and take care of the Petitioner for her balanced term till she delivers the baby. We

accept the said statement. We have conveyed the same to the Petitioner's mother. Since the Petitioner is already in the Hospital, she is permitted to continue to stay in the Hospital.

- iii) The Hospital shall provide post-delivery care to the Petitioner including neo-natal care for the baby, if so required. Considering that, the Petitioner is a victim of sexual abuse, the Hospital Authorities shall also provide for counseling, post-delivery.
- iv) Given that there is an allegation of sexual assault, the Authorities of the Hospital will preserve the appropriate tissue/DNA sample of the fetus/child after its birth and forward the same to the Investigating Officer for ensuing criminal trial.
- v) In the event that the Petitioner desires to give the child in adoption after the delivery, the State and its agencies will assume responsibility of the child and take such steps as necessary to rehabilitate the child including exercising the option of placing the child in foster care/adoption by following the due legal process. This shall not however be construed as a direction of this Court binding the Petitioner and the State shall abide by the wishes as expressed at the appropriate stage.
- vi) The concerned Department of State of Maharashtra is directed to

expedite the disbursement of compensation as applicable to the Petitioner under the Manodhairya Scheme. Atleast part of the compensation be disbursed to the victim within 2 weeks, considering the financial condition of the victim and the family, so as to enable them to tide through this crisis. We request the AGP to forward a copy of this order to the concerned Department forthwith so as to enable them to process the compensation formalities at the earliest.

11. The Petition is disposed of in the aforesaid terms.
12. List the Petition on **8th September 2025** for Reporting Compliance in respect of the disbursement of compensation and status of the Petitioner.
13. All concerned parties will act on the production of the authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)