

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6091 OF 2024

Xyz And Anr.

...Petitioners

Versus

Union Of India Thr The Ministry Of Health And
Family Welfare and Ors

...Respondents

None for the Petitioners.

Ms. Savita Prabhune, AGP for Respondent/State.

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**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATE : 10th FEBRUARY, 2026

P.C. :

1. None for the Petitioners. On the last occasion i.e. 21.01.2026, we had issued notice to the Union of India by making it returnable on 10.02.2026 that is today. Even today, there is no representation on behalf of the Petitioner.

We have perused the order dated 25.04.2024, when the Court observed thus:

“7. Another prayer made by the Petitioner No.1 is that she may be permitted to have her pregnancy terminated at a Medical Institution of her choice and also in the presence of Petitioner No.2, a registered Medical Practitioner. In this regard, it is to be noted that pregnancy beyond twenty four weeks can be terminated only at a place which has the necessary facilities prescribed under Rule 5 (1)(ii). The learned Advocate General, on instructions, submitted that presently the said facilities as prescribed are not available at the JJ Group of Hospitals or at the Cooper Hospital. According to him, these facilities are available at Wadia hospital. On this, the

learned counsel for the petitioners submitted that at Cloudnine Hospital, Malad West, the aforesaid facilities are available. To substantiate this aspect, an affidavit of Dr. Anurag Mishra, its Business Head is placed on record. It has been stated in paragraph 3 that the said hospital has the requisite approval as per existing Form B under the Rules of 2003 from the Municipal Corporation of Greater Bombay. It is further stated that the hospital has all the required facilities as provided by Rule 5(1)(ii) of the Rules of 2003.

8. Considering the exigency of the case and in the peculiar facts obtaining on record that Form A under the Rules of 2003 does not contain any reference to an approved place where pregnancy beyond twenty four weeks can be terminated, the Petitioner No.1 at her request is permitted to have her pregnancy terminated in accordance with the opinions of the Medical Board coupled with the addendum at Cloudnine Hospital, keeping the larger issue as regards the provisions of Section 4(b) of the Act of 1971 and Rule 5(1)(ii) of the Rules of 2003 open for consideration. Subject to the consent of the operating team at Cloudnine Hospital, the Petitioner No.2 is free to participate in the said procedure.”

2. In light of the aforesaid order, it is evident that the Petitioner No.1 must have undergone procedure and that is the reason, she is not interested in prosecuting the petition.

3. Though we find substance in the challenge raised and the issue could have been determined, since the Petitioners are not interested in prosecuting the petition, we dismiss it for want of prosecution by leaving the challenge open to be raised at any time in future by appropriate person who is aggrieved by the said provision.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)