

Salgaonkar

MANDIRA MILIND
SALGAONKAR

Digitally signed by MANDIRA MILIND
DN: cn=MANDIRA MILIND, o=Salgaonkar, email=mandira.milind@salgaonkar.com, c=IN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2059 OF 2026

X since minor through mother .. Petitioner

Versus

Central Hospital Ulhasnagar & Anr. .. Respondents

...

Ms.Saloni Ghule for the Petitioner.

Smt.M.P.Thakur, A.G.P. for the State/Respondent.

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

DATE : 16th FEBRUARY, 2026

...

P.C:-

1. In continuation of our previous order, Mrs.Thakur, learned Government Advocate has placed before us a report from the Civil Surgeon, Civil Hospital, Thane dated 13/02/2026 in a sealed envelope.

The report is taken on record.

2. As directed by us, 'X' was examined by the District Medical Board constituted under the Medical Termination of Pregnancy Act, 1971 under the Chairmanship of the District Civil Surgeon, Civil Hospital, Thane, comprising of two Gynecologists, one Pediatrician, Radiologist and Psychiatrist.

We have perused the report of the Medical Board presented to us in Form D. The age of the woman seeking termination of pregnancy is described to be 16 years and her history is also noted to the effect that she is unmarried, 16 year old girl with clinically 30 to 32 with cephalic presentation.

As per ultrasound conducted on 13/02/2026, it is recorded that the same is suggestive of gravid uterus with single viable fetus with cephalic presentation of 31 weeks 2 days, with foetal weight 1717 gms.

On examination, the report has opined that if the baby is not delivered vaginally, it may require surgery and this risk is explained to her relatives.

In the report from the Pediatric Department, the remark is to the following effect :-

"If the pregnancy is terminated at this gestational age, baby will be born alive, preterm and low birth weight and will need NICU care."

3. In the opinion of the Medical Board for termination of pregnancy, there is a tick mark on clause 'denied'. Down below is the justification for the said decision and on narrating the history and with reference to the examination of 'X', it is noted that the pregnant mother and her parents do not want to continue the pregnancy and rather the woman is anguished

with pregnancy. It is recorded that they expressed their desire to terminate and they were made aware about the dangers of continuation of pregnancy as well as termination of pregnancy.

The justification for the said decision further record that continuation of pregnancy may lead to pregnancy related complications like Anaemia, pregnancy induced Hypertensions as well as complication during labour.

4. With the aforesaid justification offered, which do not express any opinion as to what would be the health hazards faced by the mother, if today she is permitted to terminate the pregnancy, which has now crossed over 31 weeks and beyond the legal limits of termination i.e. 24 weeks, there is no specific comment offered.

The whole object of referring the woman to the Medical Board, as she sought termination of her pregnancy, was to ascertain whether the termination is possible, without she facing any health risk of terminating the pregnancy at this stage.

In column No.7 as to 'physical fitness of the woman for termination of pregnancy', surprisingly there is a tick-mark on column 'No'.

5. In the morning session, when the Petition was called out, learned counsel for the Petitioner Ms.Ghule, on interacting with the mother of 'X', expressed that they have decided that 'X' will give birth to the child and they will give the child in adoption. But, considering that it should be the decision of the woman, who is pregnant, we requested her to establish contact with 'X' to ascertain about her will.

At 3.00 p.m., Ms.Ghule returned back with a disturbing report that the girl was constantly crying on telephone and she insisted that she do not want to continue with the pregnancy. She also expressed her confusion about the decision to be taken to Ms.Ghule, when she established contact with her on telephone.

6. In a latest decision in the case of ***'A'(mother of 'X') Vs. State of Maharashtra & Ors.*** delivered in Civil Appeal No.827 of 2026, when the Apex Court was confronted with a report of the Medical Board where the minor daughter of the Appellant was in her 28th week of pregnancy and the fetus did not possess any congenital anomalies and the termination was reported to be possible, the High Court had refused to grant permission on the ground that the minor daughter had attained majority and the child to be born to be given for

adoption and termination in the facts and circumstances would amount to foeticide.

In the background facts the issue that arose for consideration before the Hon'ble Apex Court was with regard to the disinclination of the appellant's daughter to continue with the pregnancy and give birth to a child, particularly when she was carrying the pregnancy of 30 weeks. It is the mother/appellant, who sought termination of the pregnancy, as the continuation of pregnancy resulting in delivery would be traumatic both, physically and mentally to the daughter and adversely affect her future prospects.

Referring to the report of the Medical Board, which did not indicate any grave risk to the appellant's daughter, if she is permitted to terminate the pregnancy, the High Court had expressed that the delivery could be attempted and the child could be given in adoption.

However, this delicate issue was considered by Their Lordships of the Apex Court and the focus of the matter was, the right of the minor child i.e. the appellant's daughter to continue the pregnancy, which is ex-facie outside marriage and the child to be born to a pregnant woman who is stated to be minor.

Without getting into the issue, whether the relationship was consensual or whether it was a case of sexual assault, as there was already an F.I.R. filed, the Apex Court emphasized that ultimately the denominator is the fact that the child to be born is not out of the wedlock, and secondly, the mother to the child does not want to bear such a child. It was also expressed that if the interest of the mother is to be taken note of then her reproductive autonomy must be given sufficient emphasis and the Court cannot compel any woman, much less a minor child to complete her pregnancy, if she is otherwise not intending to do so, as that would be more traumatic to a minor.

In the result, the appellant's daughter was permitted to undergo medical termination of pregnancy, though the pregnancy was advanced to 30 weeks.

7. Almost identical to the facts before the Hon'ble Apex Court, we have a 16 years old unmarried pregnant mother, who seek termination of pregnancy, which has advanced to 31 weeks 2 days.

Unfortunately, the report from the Civil Hospital Board has not focused upon the risk, which would be posed by the mother if she is to terminate the pregnancy at this advanced stage.

We request Ms.Ghule appearing for the Petitioner to make an attempt to establish contact with the Petitioner i.e. the mother of the woman, who is seeking termination as well as 'X' herself.

Apart from this, we direct 'X' to report to the Civil Hospital, Thane and we expect the learned counsel to communicate the order to her orally and she shall immediately proceed to Civil Hospital, Thane. Upon she reaching there, if required, she shall be again re-examined, so that Medical Board can give us a clear opinion as to whether 'X' would suffer any adverse consequences, on her health parameter i.e. physical and psychological and whether termination of the pregnancy at this stage, would involve any risk to her life.

We expect the clear opinion to be furnished to us by the District Medical Board, based upon which,we would pronounce upon whether the pregnancy shall be permitted to be terminated.

8. We request Mrs.Thakur to communicate the order orally to the Civil Hospital, Thane, who shall await the arrival of 'X' in the hospital any time in the evening hours.

We are passing this unusual order, with a request to the Members of the Board to be on their toes for examining the

girl, as she is at advanced stage and every day is going to be important for taking a final call about whether she be permitted to terminate the pregnancy.

Mrs.Thakur shall impress upon the Board that they are directed to act on the oral directions and non obtaining copy of the order shall not be an excuse in not examining the girl today.

Let the report be placed before us tomorrow at 11.00 a.m.

In the meantime, it is open for the counsel appearing for the Petitioner to personally meet 'X' as well as the mother.

9. List on 17th February, 2026, under caption '**First on Board**'.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)