

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.635 OF 2017

TAPASYA UMESH PISAL

PETITIONER

VERSUS

UNION OF INDIA AND ORS

RESPONDENT(S)

O R D E R

Petitioner - Tapasya Umesh Pisal, aged 24 years, has approached this Court under Article 32 of the Constitution of India seeking directions to the respondents to allow her to undergo medical termination of her pregnancy. She apprehended danger to her life, having discovered that her fetus was diagnosed with tricuspid and pulmonary atresia, a cardiac anomaly in the fetus.

By order dated 04.08.2017, while issuing notice to the respondents, this Court gave a direction for examination of the petitioner by a Medical Board consisting of Dr. Sambare, HOD, Gynaecology and Dr. Nityanand Thakur, Paediatric Cardiac Surgeon of B.J. Govt. Medical College, Pune, and authorised it to appoint other necessary doctors, if required, for the said purpose.

As per the report dated nil, received from the Dean, B.J. Govt. Medical College & Sassoon General Hospital,

Pune, Maharashtra, the following members of the said hospital were included in the Committee/Board :

- 1) Dr. Ajay Chandanwale, Dean BJGMC, Pune.
- 2) Dr. Pradip Sambarey, Professor & Head, Obstetrics and Gynecology, BJG MC Pune.
- 3) Dr. Nityanand Thakur, CVTS Department BJGMC Pune.
- 4) Dr. Aarti Kinikar, Professor & Head, Department of Pediatrics BJGMC Pune.
- 5) Dr. Shephali Pawar, Professor, Department of Radiology, BJGMC Pune.

The aforesaid Medical Board has examined the petitioner and stated that as on 07.08.2017, she was into her 24th week of pregnancy. She was accompanied by her husband and they are aware of the cardiac anomaly and the associated morbidity of the baby if born alive. The salient features of the said report are as under :

- 1) The fetus is diagnosed as having hypoplastic right heart with tricuspid and pulmonary atresia with small size pulmonary arteries.
- 2) The surgeries that will be necessary on the fetus have been reported to carry high morbidity and mortality.
- 3) It is also reported that in spite of the surgeries, such children do not achieve normal oxygen level and would remain physically incapacitated. The life span of these children even after corrective surgeries is limited as described in medical literature.

4) The Paediatrician has reported that it appears to be an isolated complex congenital heart disease with increased morbidity and mortality post delivery.

5) The Radiologist has reported a complete absent of right ventricle and pulmonary and tricuspid valve atresia.

We also have on record the opinion of an eminent surgeon Dr. Devi Shetty of Bangalore who has stated that most of these children do not live till the adult life. Their life is precarious because of the problems resulting from low oxygenation in the body.

According to Dr. Nityanand Thakur, Cardiac Surgeon, and member of the Medical Board, there is a near certain chance of severe handicap or sudden death of the baby after birth.

Upon evaluation of the petitioner, the aforesaid Committee/Medical Board has concluded that the baby if delivered alive, would have to undergo several surgeries after birth which is associated with a high morbidity and mortality.

But for the time period, it appears that the case falls under section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971, which reads as under:

"3. When pregnancies may be terminated by registered medical practitioners.- (1)....
(2)(b) Where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical

practitioners are,
of opinion, formed in good faith, that -
(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or
(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped."

In these circumstances, it is difficult for us to refuse the permission to the petitioner to undergo medical termination of pregnancy. It is certain that the fetus if allowed to born, would have a limited life span with serious handicaps which cannot be avoided. It appears that the baby will certainly not grow into an adult.

In view of the above, we consider it appropriate in the interests of justice and particularly, to permit the petitioner to undergo medical termination of her pregnancy under the provisions of Medical Termination of Pregnancy Act, 1971. Mr. Ranjit Kumar, learned Solicitor General appearing for the respondents, has not opposed the petitioner's prayer on any ground, legal or medical. We order accordingly.

The termination of pregnancy of the petitioner will be performed by the Doctors of the hospital where she has undergone medical check-up. Further, termination of her pregnancy would be supervised by the above stated Committee/Medical Board who shall maintain complete record of the procedure which is to be performed on the

petitioner for termination of her pregnancy.

With the aforesaid directions, the instant writ petition is allowed in terms of prayer (a) seeking direction to the respondents to allow the petitioner to undergo medical termination of her pregnancy.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

NEW DELHI;
AUGUST 10, 2017.

ITEM NO.6

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.635/2017

TAPASYA UMESH PISAL

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 10-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Ms. Sneha Mukherjee, Adv.
Mr. Satya Mitra, AOR

For Respondent(s) Mr. Ranjit Kumar, Ld. SG
Ms. Sadhana Sandhu, Adv.
For Mr. G.S. Makker, Adv.

Mr. Nishant R. Katneshwarkar, Adv.
Ms. Deepa Kulkarni, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The instant writ petition is allowed in terms of the
signed order.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
BRANCH OFFICER

(Signed Order is placed on the file)

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