

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.728 OF 2017

MRS. A

PETITIONER

VERSUS

UNION OF INDIA AND ORS

RESPONDENT(S)

O R D E R

Application for non-disclosure of name and details of the petitioner is allowed.

Petitioner - Mrs. A, aged 22 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 Anencephaly, a defect that leaves foetal skull bones unformed and is both untreatable and certain to cause the infant's death during or shortly after birth. This condition is also known to endanger the mother's life.

By order dated 28.08.2017, while issuing notice to the respondents, this Court gave a direction for examination of the petitioner by a Medical Board consisting of the following Doctors of B.J. Govt. Medical College & Sassoon General Hospital, Pune, Maharashtra :

- 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/Committee has examined the petitioner and stated that as on 30.08.2017, she was into her 25th to 26th week of pregnancy. She was accompanied by her husband and they are aware of the anomaly in fetus and chances of survival of the baby if born alive. The salient features of the said report are as under :

- 1) The antenatal ultrasonography of the petitioner reveals that a single live intra uterine foetus of 26 weeks +/- 7 to 10 days. There is complete absence of fetal brain and skull vault suggestive of anencephaly.
- 2) The Cardiothoracic Surgeon has reported that the fetus has anencephaly and polyhydramnious. He further stated that this anomaly is not compatible with life.
- 3) The Paediatrician has reported that the survival rate post delivery is less than 10 to 20%. He further stated that majority of those who may survive, have serious form of morbidity and succumb within 24 to 48 hours of birth.
- 4) The Medical Board/Committee has reported that there is no treatment for anencephaly and there are possibilities of maternal complications like

polyhydromnias.

We have been informed that the fetus is without a skull and would, therefore, not be in a position to survive. It is also submitted that the petitioner understands that her fetus is abnormal and the risk of fetal mortality is high. She also has the support of her husband in her decision making.

Upon evaluation of the petitioner, the aforesaid Medical Board has concluded that her current pregnancy is of 25 to 26 weeks. The condition of the fetus is not compatible with life. The medical evidence clearly suggests that there is no point in allowing the pregnancy to run its full course since the fetus would not be able to survive outside the uterus without a skull.

Importantly, it is reported that the continuation of pregnancy can pose severe mental injury to the petitioner and no additional risk to the petitioner's life is involved if she is allowed to undergo termination of her pregnancy.

In the circumstances, 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 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 31, 2017.

ITEM NO.6

COURT NO.7

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.728/2017

MRS. A

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.77151/2017-APPLICATION FOR NON-DISCLOSURE OF NAME AND DETAILS OF PETITIONER)

Date : 31-08-2017 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 Mukharjee, Adv.
Mr. Satya Mitra, AOR

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

Mr. Nishant R. Katneshwarkar, Adv.

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

Application for non-disclosure of name and details of the petitioner is allowed.

The 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)

Note : Copy of this order be given today