

## IN THE SUPREME COURT OF INDIA

## CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.928 OF 2017

Sonali Kiran Gaikwad ..Petitioner(s)

Versus

Union of India ..Respondent(s)

WITHWRIT PETITION (C) NO.929 OF 2017

Nisha Suresh Aalam ..Petitioner(s)

versus

Union of India ..Respondent(s)

O R D E R

Pursuant to the direction of this Court the petitioners-Sonali Kiran Gaikwad and Nisha Suresh Aalam have been examined by the Medical Board and report dated 09.10.2017 has been submitted. After detailed examination of the petitioners-Sonali Kiran Gaikwad and Nisha Suresh Aalam, the following opinion is expressed by the Medical Board:

"Upon examination and after carefully studying the multiple sonography reports and fetal MRI reports, it is confirmed that there are multiple serious neurological and skeletal anomalies - A Chiari II malformation along with a large neural tube defect in the lumbosacral region along with acute kyphoscoliosis. These abnormalities have high chances of morbidity and mortality in the newborn. It also requires surgical treatment. There are high chances of meningitis, mental retardation, paralysis of lower limbs and loss of urine and bowel control.

The woman has been explained the outcome in a language she understands. Thus the condition of fetus fulfills the criteria of "substantial risk of serious physical handicap" in the fetus.

The pregnant woman has voluntarily expressed her desire to terminate the pregnancy and is well informed about the nature of the condition of fetus and its outcome. She is extremely anguished with the condition of the fetus in utero.

The pregnancy has advanced to 28 weeks and is beyond 20 weeks cut off of the Medical Termination of Pregnancy Act. Hence, she has approached Honourable Court for termination of pregnancy.

At this stage of pregnancy the risk of termination remains the same as the natural labour at term.

Thus if the Honourable Court permits, the pregnancy can be terminated as desired by the woman."

A categorical view reflected in the above said report is that if the pregnancy of the petitioners is terminated at this stage it is not going to be more hazardous than spontaneous delivery at term. On the contrary, continuing pregnancy will cause more mental anguish to the petitioners. Having regard to the aforesaid report and the law laid down by this Court in various judgments including in judgment dated 16.01.2017 in W.P. (C) No.17 of 2017 titled as Meera Santosh Pal & Ors. vs. Union of India & Ors., the prayer made in the writ petitions(s) is allowed to the extent the petitioners are free to undergo medical termination of their pregnancy. For this purpose, petitioners-Sonali Kiran Gaikwad and Nisha Suresh Aalam may visit the hospital on 12<sup>th</sup> October, 2017 and they would be attended immediately.

The writ petitions are disposed of.

However, we make it clear that any future such cases can be filed in the respective High Courts having territorial jurisdiction.

.....J.  
(A.K. SIKRI)

.....J.  
(ASHOK BHUSHAN )

New Delhi,  
October 09, 2017.

ITEM NO.58

COURT NO.5

REVISED  
SECTION XS 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 SWrit Petition(s) (Civil) No.928/2017

SONALI KIRAN GAIKWAD

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

WITH

W.P.(C) No. 929/2017 (X)

Date : 09-10-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHANFor Petitioner(s) Ms. Sneha Mukherjee, Adv.  
Ms.Jyoti Mendiratta, AORFor Respondent(s) Mr. Ranjit Kumar, SG  
Ms. Sadhana Sandhu, Adv.  
Mr.G.S. Makker, Adv.Mr. R.R. Rajesh, Adv.  
Mr.M.K. Maroria, Adv.Mr. N.R. Katneshwarkar, Adv.  
Ms. Suvarna G., Adv.UPON hearing the counsel the Court made the following  
O R D E RThe writ petitions are disposed of in terms of the signed  
order.(USHA RANI BHARDWAJ)  
AR CUM PS(MALA KUMARI SHARMA)  
BRANCH OFFICER

Signed order is placed on the file.

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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

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For Respondent(s) Mr. Ranjit Kumar, SG  
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Mr.G.S. Makker, Adv.

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Mr.M.K. Maroria, Adv.

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