



***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION***

***WRIT PETITION (LODGING) NO. 23233 OF 2023***

XYZ ...Petitioner  
Versus  
The State of Maharashtra ...Respondent

Ms. Anubha Rastogi a/w Ms. Rachita Padwal for the Petitioner

Ms. P. H. Kantharia, G.P for the Respondent-State

**CORAM : REVATI MOHITE DERE &  
GAURI GODSE, JJ.  
(IN CHAMBER)  
FRIDAY, 25<sup>th</sup> AUGUST 2023**

**P.C :**

1 Heard learned counsel for the parties.

2 By this petition preferred under Article 226 of the Constitution of India, the petitioner, aged 32 years, seeks a direction for constitution of a Medical Board for examining the fetus, having regard to the anomalies of the fetus and thereafter, on obtaining the report, permit the petitioner to terminate her pregnancy.

3           Vide our order dated 23<sup>rd</sup> August 2023, we had directed the Dean of the Sir J. J. Group of Hospitals, Mumbai, to forthwith constitute a Medical Board, in terms of the Medical Termination of Pregnancy (Amendment) Act, 2021 r/w the Medical Termination of Pregnancy Act, 1971 for examining the petitioner.

4           Pursuant to the same, the petitioner appeared before the said Board on 24<sup>th</sup> August 2023 and the Medical Board so constituted, examined the petitioner.

5           Ms. Kantharia, learned G.P has tendered a report of the Medical Board dated 25<sup>th</sup> August 2023. The said report is taken on record. The Board in the said report has opined as under :

*“THE PATIENT WRIT PETITION NO. 23233 OF 2023 IS GSPILIA3 BY DATE 26 WEEKS 2 DAYS AND BY SCAN 26.2 WEEKS AND IN HER ANOMALY SCAN IS DIAGNOSED TO HAVE*

*CARDIOMEGALY WITH PERICARDIAL EFFUSION WITH 2 DEGREE HEART BLOCK AND HAS SOUGHT HIGH COURT ORDER FOR MEDICAL TERMINATION OF PREGNANCY. AFTER EXAMINING THE PATIENT, THE COMMITTEE IS OF THE OPINION FAVOURING TERMINATION AND AT PRESENT THE MOTHER IS FIT FOR MEDICAL TERMINATION OF PREGNANCY PHYSICALLY AND MENTALLY.*

*PATIENT CAN UNDERGO MEDICAL TERMINATION OF PREGNANCY AT ANY TERTIARY INSTITUTE.*

*HOWEVER, FINAL OPINION REGARDING THE FITNESS CAN BE DECIDED UPON DEPENDING ON THE CLINICAL CONDITION AT THEIR TIME OF THE PROCEDURE.”*

6 From the said report, it appears that the Board is of the opinion that the petitioner is fit for termination of her pregnancy, both, physically and mentally.

7 Considering the aforesaid, we allow the petitioner to go to any hospital of her choice, having adequate facilities for conducting the said procedure, expeditiously.

8            However, in the event, the petitioner gives birth to a live child and if the petitioner does not wish to keep the child, then the State of Maharashtra shall step in and take care of the well being of the child, on petitioner handing over the child to the State of Maharashtra.

9            Matter to be listed on **30<sup>th</sup> August 2023**, for compliance.

10          All concerned to act on the authenticated copy of this order.

**GAURI GODSE, J.**

**REVATI MOHITE DERE, J.**