



WA 477 OF 2025

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2025:KER:20965

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 12TH DAY OF MARCH 2025 / 21ST PHALGUNA, 1946

WA NO. 477 OF 2025

AGAINST THE JUDGMENT DATED 10.03.2025 IN WP(C) NO.8514 OF

2025 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER IN THE WRIT PETITION:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
LIJO JOHN THAMPY
MANU SRINATH
NIVEDITA MUCHILOTE
RIYAS M.B.

RESPONDENTS/RESPONDENTS IN THE WRIT PETITION:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF HEALTH AND FAMILY WELFARE,
NEW DELHI, PIN - 110001
- 2 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 3 GENERAL HOSPITAL, ERNAKULAM
HOSPITAL ROAD, MARINE DRIVE,
ERNAKULAM, KERALA
REPRESENTED BY ITS MEDICAL SUPERINTENDENT,
PIN - 682011



4 HEAD OF DEPARTMENT
DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
GENERAL HOSPITAL, HOSPITAL ROAD, MARINE DRIVE,
ERNAKULAM, KERALA, PIN - 682011

5 GOVERNMENT MEDICAL COLLEGE, ERNAKULAM
HMT ROAD, HMT COLONY, NORTH KALAMASSERY,
KALAMASSERY, KOCHI, KERALA
REPRESENTED BY ITS MEDICAL SUPERINTENDENT.,
PIN - 683503

6 HEAD OF DEPARTMENT
DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
GOVERNMENT MEDICAL COLLEGE,
ERNAKULAM HMT ROAD, HMT COLONY,
NORTH KALAMASSERY, KALAMASSERY,
KOCHI, KERALA, PIN - 683503

BY SRI.T.C.KRISHNA, DSGI
SRI.SUNILKUMAR KURIAKOSE, GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12.03.2025,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

A. Muhamed Mustaque, J.

The Medical Board has opined that there is a substantial risk that the baby is likely to have neurological abnormalities if born alive. Section 3(2)-B) of the Medical termination of Pregnancy Act, 1971, states as follows:

“(2-B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.”

2. The length of pregnancy is not a matter for termination if the Medical Board opines that a substantial fetal abnormality exists. The appellant has a prayer that, there exists substantial foetal abnormality. The appellant shall be permitted to undergo iatrogenic foetal demise of the fetus.

3. The learned Government Pleader submits that no such facility is available at Kalamassery Medical College.

4. In the said circumstances, we pass the following order and dispose of the matter as follows:

(1)The Medical Board of Kalamassery Medical College



shall examine Annexure 1, the Medical Board report dated 5.3.2025, and determine whether a substantial foetal abnormality exists.

(2) If such an abnormality is found, a certificate shall be issued. On the basis of such certificate, the appellant is permitted to approach any hospital of her choice for iatrogenic foetal demise.

(3) There shall be a direction to the Superintendent of the above Medical College to constitute a Medical Board either today or by tomorrow.

The impugned judgment is hereby modified and is disposed of accordingly.

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE**

Sd/-

**P. KRISHNA KUMAR
JUDGE**



APPENDIX OF WA 477/2025

PETITIONER'S ANNEXURES

ANNEXURE 1 **TRUE COPY OF REPORT DATED 05.03.2025 ISSUED
BY THE MEDICAL BOARD FORMED UNDER 5TH
RESPONDENT**

ANNEXURE 2 **TRUE COPY OF GOVERNMENT OF INDIA GUIDELINES
MOHFW D.O NO. M. 12015/58/2017- MCH DATED
14.08.2017 ALONG WITH THE DIRECTIVE DATED
06.08.2018 AND THE GUIDANCE NOTE ISSUED BY
THE 1ST RESPONDENT UNION OF INDIA**