



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO.4521 OF 2025

XYZ .....Petitioner  
Vs.  
The State of Maharashtra  
through the Principal Secretary, Public Health  
Department & Anr. ....Respondents

Ms. Meenaz Kakalia, i/b Ms. Shruti Kumar, for the Petitioner.  
Mrs. Pooja Patil, AGP for the Respondent No.1-State.  
Mrs. Purnima Awasthi, for Respondent No.2-Union of India.

**CORAM : REVATI MOHITE DERE &  
DR. NEELA GOKHALE, JJ.**

**DATE : 13TH FEBRUARY 2025.**

**P.C.:-**

1. The Petitioner is an adult. She is in her 25<sup>th</sup> week of pregnancy. She is unwilling to continue with the pregnancy for the reasons mentioned in the Petition. She seeks permission for medical termination of the pregnancy.

2. The Petitioner was subjected to a medical examination by the Medical Board constituted by the Authorities of Sir J. J. Group of Hospitals and Grant Medical College, Mumbai under Rule 3A(b)(ii) of

the Medical Termination of Pregnancy (Amended) Rules of 2021 ('MTP Rules'). The Medical Board has given an opinion in the requisite Form-D with regard to the termination of pregnancy at the request of the Petitioner.

3. The Petitioner has placed the said report/opinion of the Medical Board on record at Exhibit-G at Page No. 54 of the Petition. The Medical Board has allowed the request of the Petitioner for medical termination of her pregnancy on the ground that the amniocentesis is suggestive of 3M syndrome with findings consistent with skeletal dysplasia. The Board has opined that the above condition has high post natal morbidity. Furthermore, the Board has affirmed that the Petitioner is physically fit for undergoing the MTP procedure. The Report is unanimous.

4. Ms. Meenaz Kakalia, learned counsel appears for the Petitioner and Mrs. Pooja Patil, learned AGP represents the State. Mrs. Purnima Awasthi, learned counsel appears for the Union of India.

5. Ms. Kakalia submits that the prayer of the Petitioner is twofold. Firstly, she seeks permission to medically terminate her

pregnancy at an institution of her choice, subject to the said institution possessing the facilities as required under Rule 5(1)(ii) of the MTP Rules, 2003. Secondly, she seeks permission to a registered Medical Practitioner performing the procedure to adopt the guidelines framed by the Union of India with respect to the methods of termination.

6. Ms. Kakalia referred to the guidance note issued by the Union of India in relation to Medical Boards for Termination of Pregnancy beyond 20 weeks of gestation. Clause V(c) provides for stopping of fetal heart beat that may be required to avoid the fetus being delivered alive. The State Government has also adopted these guidelines of the Central Government and have provided for stopping the heart beat of the fetus in such situation.

7. As far as the first prayer is concerned, we have perused the opinion of the Medical Board. It is clear that there is fetal anomaly in the form of a syndrome associated with severe growth restriction long and short bones anomalies cartilage and axial skeletal anomalies which would require multiple corrective surgeries for severe deformities. The child may have a risk of hypogonadism and infertility in future, hence the Board has recommended medical termination of

her pregnancy.

8. Conscious of the right of the Petitioner to reproductive freedom, her autonomy over the body and her right to choice, the medical condition of the Petitioner and having considered the findings and opinion of the Medical Board, we permit the Petitioner to medically terminate the pregnancy. The Petitioner has indicated her desire that, the delivery procedure, etc. to be done in a hospital of her own choice. We permit her to do the same. However, the Medical institution so chosen by her shall have the requisite approval of Rule 5 of the MTP Rules.

9. In these facts and circumstances, we permit the Petitioner to medically terminate the pregnancy in a hospital/institution of her own choice subject to the institution being approved as required under the MTP Rules.

10. At this stage, Ms. Kakalia brings to our notice a lacunae in the Form A to be submitted for the approval of a place under Clause 4(b) of the MTP Act. The said Form A comprises of two categories only: namely category 'A' dealing with termination of pregnancy upto

12 weeks and category 'B' dealing with termination of pregnancy upto 24 weeks. It is the contention of Ms. Kakalia that since there is no third category provided in Form A relating to category of termination of pregnancy beyond 24 weeks, the institution of the choice of the Petitioner is unable to make an application in the said Form 'A'. Consequently, the said institution does not have a certificate of approval under 5 (6) of the MTP Rules issued by the concerned authority.

11. At this stage, the prayer regarding termination of pregnancy of the Petitioner which is at an advanced stage is of utmost urgency. In this view of the matter, we asked Ms. Kakalia to place on record an affidavit duly affirmed by the owner of the institution or a representative authorized by him stating that his institution fulfills the requirements specified in Rule 5(2) of the MTP Rules.

12. Today, Ms. Kakalia has placed on record the affidavit dated 13<sup>th</sup> February 2025 duly affirmed before a Notary Public of Dr. Anurag Mishra of Cloudnine Hospital, Malad (West). The relevant portion of the affidavit reads as thus:

*“3. The hospital also has the requisite approval as per the existing Form 'B' under the MTP Rules, 2003 from the Municipal Corporation of Greater Mumbai for conducting termination of pregnancy. I further state that the Hospital also has the facilities to conduct sonographies including invasive procedures and has the requisite license from the Public Health Department, Government of Maharashtra as per the provisions of the Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection Act), 2003. As such, the Hospital is required to have "facilities for procedure under ultrasound" as set out I Rule 5(1)(ii) of the MTP Rules, 2003”*

13. We have perused the affidavit. We are satisfied that the institution chosen by the Petitioner to undergo the procedure fulfills the requisite in Rule 5(2) of the MTP Rules. Hence, we are inclined to permit the Petitioner to undergo MTP procedure in Cloudnine Hospital, Malad (West). In view of the guidance note issued by the Union of India and adopted by the State of Maharashtra, we permit the medical practitioner chosen by the Petitioner to perform the MTP procedure as contemplated under clause V(c) of the guidance note, if, in the opinion of the Medical Practitioner, it is so required.

14. We leave the larger issue raised by Ms. Kakalia relating to the lacunae in Form A under Rule 5(2) of the MTP Rules open for consideration at a later date.

15. List on **10<sup>th</sup> March 2025** for further consideration.

16. All concerned parties will act on the production of the authenticated copy of this order.

**(DR. NEELA GOKHALE, J.)**

**(REVATI MOHITE DERE, J.)**

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signed by  
SHAMBHAVI  
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SHIVGAN  
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