

Mrs A vs Gnctd & Anr on 7 March, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2748/2023

MRS A

..... Petitioner

Through: Mr. Anwesh Madhukar (DHCLSC),
Mr. Pranjal Shekhar, Ms. Prachi
Nirwan & Mr. Yaseen Siddiqui,
Advocates. (M: 9899866844)

versus

GNCTD & ANR.

..... Respondents

Through: Mr. Mehak Nakra ASC, Mr. Abhishek
Khari, Advocates for GNCTD. (M:
9871144582)
Mr. V.S.R. Krishna & Mr. Shashank
Kumar, Advocates for AIIMS.
(M:9841205519)

CORAM:

JUSTICE PRATHIBA M. SINGH
ORDER

% 07.03.2023

1. This hearing has been done through hybrid mode.
2. The Petitioner has approached this Court seeking directions to the Respondents to medically terminate her pregnancy.
3. The gestation period of the Petitioner's pregnancy is 28 weeks.
4. The case of the Petitioner is that on 17th February, 2023, at 25 weeks of gestational age she underwent ultrasound, wherein for the first time some abnormalities in the foetus were found. Thereafter, she was referred to a foetal medicine expert. Accordingly, a foetal echocardiography was conducted on 25th February, 2023 which showed significant foetal abnormalities.

5. The Petitioner has thus filed the present petition seeking directions to the Respondents to medically terminate her pregnancy. In the present petition, this Court vide order dated 3rd March, 2023 directed the constitution of a Medical Board by AIIMS and directed as under:

"5. The Court has perused the earlier ultrasound report of 5th January, 2023 when the gestation period was 18 weeks. It is noticed that no abnormalities were detected at that stage. On 17th February, 2023, at the time of the subsequent ultrasound the gestation period was 25 weeks and 3 days and on 25th February, 2023, when the foetal echocardiography was conducted the gestation period was 26 weeks and 3 days.

6. Considering the nature of the abnormalities, in accordance with the provisions for the Medical Termination of Pregnancy Act, 1971, let the Medical Board be constituted by Respondent No.2 - All India Institute of Medical Sciences (AIIMS) immediately.

7. The Petitioner shall appear before the Medical Board tomorrow i.e. on 4th March, 2023 at 3:00 p.m in AIIMS."

6. The medical Board was constituted at AIIMS consisting of the following six members:

- (i) Chairperson - Dr. J.B. Sharma, Professor, Dept. of Obs. & Gynae
- (ii) Member- Dr. Madhulika Kabra, Professor, Deptt of Paediatrics
- (iii) Member- Dr. Saurabh Kumar Gupta, Professor, Dept. of Cardiology
- (iv) Member- Dr. Surabhi Vyas, Professor, Dept. of Radio-Diagnosis
- (v) Member- Dr. Neha Varun, Asst. Professor, Dept. of Obs. & Gynae
- (vi) Member Secy - Dr. Abhishek Anand, Dept of Hospital Administration

7. Today, the medical board's opinion has been received from AIIMS which clearly records that the Ultrasonography and foetal echo which was performed on 6th March, 2023 at AIIMS suggest an evolving hypoplastic left heart syndrome with poor postnatal prognosis. The said report is extracted hereinbelow:

"Petitioner Mrs 'A' was examined on 07.03.2023 and her medical records were evaluated by the panel of experts in the board.

OPINION: The Medical board after reviewing the records is of the following opinion:

- The petitioner Mrs. 'A' is a G2 A1 at 28 weeks + 2 days POG by her LMP of 21.08.2022.
- Ultrasonography and Fetal Echo performed on 06.03.2023 at AIMS are

suggestive of evolving hypoplastic left heart syndrome with poor postnatal prognosis.

• Mother does not have any medical co-morbidities. • In view of above, Medical Termination of Pregnancy (MTP) can be offered."

8. The report of the medical board is unequivocal to the effect that there is a substantial foetal abnormality. The Medical Termination of Pregnancy Act, 1971 (MTP Act, 1971) in Section 3 provides for instances when pregnancies may be terminated. A perusal of the provision shows that, under Section 3(2), pregnancy can be terminated under various conditions. The present case would be governed by Section 3(2B) of the MTP Act, 1971 which relaxes the conditions of length of pregnancy. Under Section 3(2B), termination of pregnancies which are beyond 24 weeks can be permitted only if the said termination is necessitated by the diagnosis of "substantial foetal abnormalities" by a Medical Board.

9. In the case, the six member Medical Board has diagnosed the existence of 'hypoplastic left heart syndrome' which does not have a positive post-natal prognosis i.e., that after birth the prognosis for the foetus is quite poor. There is thus an unambiguous report of the Medical Board confirming the reports given by the other diagnostic centres, whose reports have been placed on record by the Petitioner. In view of the report of the Medical Board, it is directed that the medical termination of the Petitioner's pregnancy shall be carried out at AIIMS on 9th March, 2023.

10. The exact time and location for the Petitioner to reach, shall be communicated by ld. Counsel for AIIMS to ld. Counsel for the Petitioner.

11. With these observations the present petition along with all pending applications is disposed of.

PRATHIBA M. SINGH, J MARCH 7, 2023 dj/kt