

Court No. - 39

Case :- WRIT - C No. - 19983 of 2021

Petitioner :- CD (2021)

Respondent :- State Of U P And Another

Counsel for Petitioner :- Nipun Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Deepak Verma,J.

On oral mention made by learned counsel for the petitioners that the matter is extremely urgent and shall be rendered infructuous, if not taken immediately, the file was called for.

Heard Sri Nipun Singh, learned counsel for the petitioners and Sri Manish Goel, learned Additional Advocate General assisted by Sri Mohan Srivastava, learned Standing Counsel and Sri Sandeep Kumar Singh (State Law Officer) on behalf of respondents.

The petitioner no. 1 claims to be a rape victim. She has approached this Court, through her guardian-petitioner no. 2 (father) for a mandamus directing the respondents to permit her to terminate her undesirable pregnancy.

Reliance has been placed on Explanation-I to sub-section (2) of Section 3 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as 'the Act') in contending that the pregnancy has resulted in such extreme anguish to her that it constitutes grave injury to her mental health.

As per radiological report of Chief Medical Officer, Bulandshahr, the date of birth of victim is around 16-17 years and thus, she is a minor. Reliance has also been placed on the amendment made to the 'Act' by the Medical Termination of Pregnancy (Amendment) Act, 2021, dated 25.03.2021 whereby the outer limit for abortion permissibility has been enhanced to twenty four weeks.

It is submitted that as per report of medical examination held on 24.7.2021 at B.B.D. Government Hospital, Bulandshahr, the age of fetus at that time was 14.6 weeks meaning thereby that as of date the pregnancy is of about nineteen weeks.

Section 3 of the Act permitted termination of pregnancy in accordance with the provisions of the said Act. The outer limit prescribed for termination of pregnancy was twenty weeks. The same has been increased to twenty four weeks by the Amendment, Act of 2021. The *Explanation-I* to Section 3 of the

Act, permits termination of pregnancy of a victim of rape by raising a presumption that the anguish caused by pregnancy in such cases constitute a grave injury to her mental health.

Learned counsel for the petitioner states that it would be convenient for the petitioner to get her pregnancy terminated at Lala Lajpat Rai Memorial Medical College, Meerut.

Accordingly, we direct the Principal, Lala Lajpat Rai Memorial Medical College, Meerut to constitute a Board of four experts one each in the field of Gynecology, Psychiatry, Radiology or Sonology and Pediatrics.

The first Additional District Judge, Meerut shall act as a member cum co-ordinator of the medical Board.

The petitioner shall present herself before the Medical Board for medical examination on 31.08.2021 at 11 am. The Board after carrying out medical examination of petitioner, shall submit its opinion/recommendation in sealed cover to the First Additional District Judge, Meerut, who shall forthwith transmit the same to this Court. The opinion/recommendation of the Board shall inter-alia be on the following aspects:

- a) Length of pregnancy;
- b) Whether continuance of pregnancy would involve any risk to the life of the petitioner no. 1;
- c) Whether continuance of pregnancy would otherwise result in any grave injury to the petitioner no.1;
- d) Whether there is substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

The report/recommendation of the Board shall positively be transmitted to this Court by 02.09.2021.

Sri Mohan Srivastava, learned Standing Counsel shall communicate this order to the Senior Superintendent of Police, Bulandshahr, who shall provide full security to the petitioner and person accompanying her to medical college, Meerut for medical examination. Sri Manish Goel, learned Additional Advocate General, who on our request is present, has undertaken to communicate to the instant order to the Principal, Lala Lajpat Rai Memorial Medical College, Meerut within 24 hours so that it is duly complied with.

Office is directed to provide a free copy of this order to Sri Mohan Srivastava, learned Standing Counsel for due

communication to the authorities. Registrar (Compliance) shall communicate the instant order to Additional District Judge, Meerut.

Put up as fresh on **03.09.2021**.

Office is directed to substitute the name of the petitioner with CD (2021) in the writ petition, in computer database and in certified copy or any other documents that is issued or put in public domain so that the identity of the petitioner does not get disclosed.

(Deepak Verma,J.) (Manoj Kumar Gupta,J.)

Order Date :- 27.8.2021
Meenu