

(2023) 06 KL CK 0159

In the High Court Of Kerala

Case No : Writ Petition (C.) No. 18499 Of 2023

Archana Gopal

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 13-06-2023

Acts Referred:

Citation : (2023) 06 KL CK 0159

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : V.Sreejith, Anish.K., Kalyani Balachandran, Sakeena Beegum, B.S.Syamantak

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. The above writ petition is filed with following prayers :

"1. Issue a writ of mandamus or other appropriate writ, orders or directions commanding the respondents to permit and facilitate the termination of the pregnancy of the 1st petitioner.

2. Issue a writ of mandamus or any other appropriate writs, order or direction directing the respondents to take steps to examine the 1st petitioner and to terminate the pregnancy of the 1st petitioner.

3. Grant such other orders or directions as this Hon'ble may deem just, fit and necessary in the facts and circumstances of the case." [SIC]

2. The petitioners are husband and wife whose marriage was solemnized on 18.03.2018. The 1st petitioner has conceived their first child, with her last menstrual date falling on 19.10.2022. The expected due date of the delivery of the 1st petitioner based on the menstrual cycle is 26.07.2023. During the 20th week of gestation, the 1st petitioner undergone anomaly scan in which the ventricular measurements were appeared as 9 mm on right and 9.2 mm on the

left side, which was border line index. So repeated scans were prescribed by the doctors. The repeated scans on 22nd, 23rd and 28th gestation weeks also showed substantial increase in the vernacular measurements is the submission. The scan done on 31st week plus one day of the gestation shows the Fetus with Bilateral Sever Ventriculomegaly with the lateral ventricles measuring 34 mm on left and 36 mm on the right. It is submitted that the reports stated that the child born could have significant neuro development delay, delayed milestone and varying degree of intellectual disability. Hence, this writ petition is filed by the petitioners for issuing direction to the respondents to permit and facilitate the termination of the pregnancy of the 1st petitioner.

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. When this writ petition came up for consideration on 07.06.2023, this Court directed the 2nd respondent to constitute a medical board to examine the 1st petitioner and the 1st petitioner was directed to appear before the Medical Board. The 1st petitioner appeared before the Medical Board and the Medical Board after examining the 1st petitioner submitted a report before this Court. The opinion of the Medical Board is extracted hereunder :

"The Medical Board has examined Mrs. Archana Gopal, 32 yrs with 33 weeks 5 days gestation. Now USG showing gross hydrocephalus with thin cortical mantle which shows the possibility of severe neurological deficit and disability of the baby. So continuation of pregnancy may cause substantial risk of physical abnormalities in the fetus as to render it seriously handicapped. So MTP may be recommended."

5. In the light of the same, there is no other way except to order termination of the pregnancy.

Therefore, this writ petition is disposed of with the following direction :

1) The 2nd respondent is permitted to facilitate the termination of the pregnancy of the 1st petitioner forthwith.