

**(2021) 01 P&H CK 0224**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 610 Of 2021 (O&M)

Bhawna Bhatia And Another

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

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**Date of Decision :** 18-01-2021

**Acts Referred:**

Constitution Of India, 1950 — Article 226, 227

**Citation :** (2021) 01 P&H CK 0224

**Hon'ble Judges :** Fateh Deep Singh, J

**Bench :** Single Bench

**Advocate :** Jagjot Singh, Shireesh Gupta, Alok Jain

**Final Decision :** Allowed

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## **Judgement**

Fateh Deep Singh, J

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The present petition by wife Bhawna Bhatia and husband Deepak Bhatia by way of civil writ petition under Articles 226/227 of the Constitution of

India seeks writ in the nature of MANDAMUS for directing the respondents to terminate the pregnancy of the child in the womb of petitioner No. 1

on account of poor prognosis in view of multiple congenital fetal anomalies .

Notice of the petition was given to the respondents and report of the PGI Chandigarh-respondent No.2 was also called for vide order of this Court

dated 11.01.2021. The learned counsel for the respondents had made statements that they do not oppose the relief so sought and have no objection if the petition stands allowed.

Upon hearing the parties and perusal of the records.

Admittedly, petitioners got married to each other on 11.05.2013 out of which they have been bestowed with a girl child on 22.07.2021. It is,

subsequently, petitioner No. 1 wife got pregnant with pregnancy of 22 weeks' and 06 days (approximately) at the time of filing of the petition. It was

during routine medical check up and examinations of Bhawna Bhatia, it transpired that the child in the womb was suffering from congenital anomalies,

i.e. abnormal soft tissue mass thickening around the foetal head, nuchal fold was 6.1 mm and four cardiac chambers were seen having a large

Atrioventricular Septal Defect (AVSD), i.e. a large hole in the heart and the same is supported by the medical document (Annexure P-1). The reports

submitted by duly constituted permanent medical board of PGI at Chandigarh in its report dated 14.01.2021 has detailed as under:-

“Atrio-Ventricular Septal Defect with overriding of aorta and small pulmonary artery. The fetal echocardiography done on 13.01.2021 has findings

suggestive of multiple developmental cardio vascular anomaly including double outlet right ventricle (DORV) and large inlet ventricular septal defect

(VSD) and pulmonary stenosis (PS).”

Furthermore, the medical board had opined that the patient may undergo medical termination at this stage due to severe congenital malformation of the fetal heart.

Though the Apex Court has held in *Suchita Srivastava and another Vs. Chandigarh Administration* 2009 (4) RCR (Civil) 258 that termination of

pregnancy is the sole prerogative of the women and a pregnancy cannot be permitted to be terminated without her consent with the rider that medical

practitioner is satisfied that continuation of the pregnancy would involve risk of life or grave injury to the mother of the child.

In the present case, the petition has been filed by the wife and it is duly stated at bar on her side that in view of medical complications life of petitioner

No. 1 might be in danger and even fetus is malformed, thus, having regard to the willingness of the petitioner couple and the opinion of the medical

board of the P.G.I. Chandigarh which is a reputed medical institution of the region and in the ends of justice to safeguard the mother petitioner No. 1

who might be oscillating between life and death and from further complicating her life necessitates that every endeavour needs to be made to meet the

ends of justice.

In the light of the same, the present writ petition is allowed. The petitioners are at liberty to get the pregnancy of petitioner No.1 aborted in the womb and ensure that it is done by specialist medical professionals as per the requirements laid down in the Medical Termination Act 1971 without use of any undue coercion and pressure upon the women upon obtaining her consent. Office is directed to send the copy of this order without loss of time.