

(2023) 02 KAR CK 0002

In the Karnataka High Court

Case No : Writ Petition No. 100618 Of 2023 (GM-RES)

Nagarathana D/O Durugamma

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 01-02-2023

Acts Referred:

Citation : (2023) 02 KAR CK 0002

Hon'ble Judges : S.R. Krishna Kumar, J

Bench : Single Bench

Advocate : Mrutyunjay Tata Bangi, Prashant V. Mogali

Final Decision : Allowed

Judgement

S.R. Krishna Kumar, J

1. In this writ petition, the petitioner has sought for the following reliefs.

- i) Issue writ of mandamus permitting the petitioner to terminate ongoing pregnancy of her minor daughter through 2nd respondent or by a registered medical practitioner at any approved private or governments center or hospital;
- ii) Pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case.

2. On 31.01.2023, this Court passed the following order.

"Learned HCGP on instructions submits that if the petitioner approaches respondent No.2/District Surgeon today during the course of the day, respondent No.2 would take necessary steps to constitute a committee to examine the petitioner's daughter-Arunajyothi with regard to her claim for termination of her pregnancy and submit report in this regard on or before the next date of hearing.

Submission of learned HCGP is placed on record. Accordingly, respondent No.2 is directed to take necessary steps to form/constitute a committee to examine the daughter of the petitioner and submit report as regards feasibility of termination

of pregnancy on 01.02.2023.

Relist on 01.02.2023 at 2.30 p.m.

Registry to issue copy of this interim order to the learned HCGP as well as learned counsel for the petitioner forthwith."

3. Pursuant thereto, the learned HCGP has filed a memo along with the communication dated 01.02.2023 enclosing a copy of the report of the committee which has opined that the pregnancy of the petitioner's daughter can be terminated subject to the terms and conditions mentioned in the report. The said communication contains the report which reads as under:

"Department of Radio diagnosis MCH VIMS Ballari.

Single normal intrauterine live gestation in longitudinal lie with cephalic presentation with sonographic gestational age of 27 weeks & 5 days +/- 2 weeks as on 01.02.2023.

Opinion: Based on the above history and examination and investigation of Kum.Aruna yothi, aged 15 years, D/o Nagarathna, Ward No. 5, Kenchamma Temple, Kamalapura, Hospet (Tq.), Ballari (D) is finally opined that Kum. Aruna Jyothi, 15 years is pregnant with gestational age of 27 weeks and 5 days +/- 2 weeks as on 01.02.2023.

After detailed history and examination of Kum. Aruna Jyothi we are of the opinion that she is fit for termination of pregnancy and the same is feasible."

4. In view of the aforesaid facts and circumstances and report of the committee coupled with the judgment passed by a coordinate Bench of this Court in kumari 'd' vs., The State of karnataka and others in Writ petition no.104344/2021 disposed off on 17.11.2021, I am of the considered view that the petitioner would be entitled to get pregnancy of her daughter terminated in terms of the report. In the result, I pass the following:

ORDER

Petition is allowed and disposed off in terms of the opinion of the committee referred to supra.

Respondent No.2 is directed to forthwith ensure medical termination of pregnancy of Kumari 'X' (name of the petitioner is mentioned as 'X' for the sake of confidentiality) in accordance with the provisions of the Medical Termination of Pregnancy Act, 1971.

It is further directed that upon termination of the pregnancy the 2nd respondent shall ensure that the foetus/abortus is preserved for DNA testing etc.

A copy of this order to be furnished to the parties forthwith.