
(2020) 11 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17856 Of 2020

Sandeep Kaur

APPELLANT

Vs

Ut Chandigarh & Another

RESPONDENT

Date of Decision : 02-11-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 11 P&H CK 0001

Hon'ble Judges : Hari Pal Verma, J

Bench : Single Bench

Advocate : Rahish Pahwa, Madhu Dayal, Amit Jhanji

Final Decision : Disposed Of

Judgement

Hari Pal Verma, J

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Petitioner - Sandeep Kaur, aged 28 years, wife of Inderjit Singh, resident of Village Kasumbri, District Fatehgarh Sahib has filed the present writ petition under Article 226 of the Constitution of India so as to issue a writ in the nature of Mandamus directing the respondents for termination of her pregnancy, who is presently having pregnancy of above 20 weeks. As per the petitioner, the fetus is affected with Hemophilia 'A' according to the Fetal DNA Report dated 23.10.2020 (Annexure P-1). She seeks termination of her pregnancy in view of Medical Termination of Pregnancy Act, 1971.

Learned counsel for the petitioner has argued that marriage of the petitioner was solemnized on 24.01.2016 and a male child namely Karanjot was born out of this wedlock on 16.12.2019. However, unfortunately, the child is affected with Hemophilia A. Initially, the couple was not aware about the disease of the child Karanjot and were taking treatment from the doctor, but as the child started showing some persistent complications, the petitioner took him to various

hospitals including Cosmo Mohali, Chaitanya Chandigarh, GMCH Chandigarh, Government Rajendra Hospital Patiala and District Hospital, Mohali and in this manner, the aforesaid abnormality was noticed. The petitioner and her entire family is going through a tough time because of the abnormality of the child and now, the petitioner is carrying pregnancy of more than 20 weeks, but less than 24 weeks. During the gestation period of the petitioner, she has undergone medical tests for the fetus and as per the report dated 23.10.2020 of the Department of Haematology, PGIMER, Chandigarh (Annexure P-1), the DNA report of the fetus shows that the fetus is affected with Hemophilia A. She submits that the provisions of the Medical Termination of Pregnancy Act, 1971 permit a married woman to undergo termination of her pregnancy where the continuation of pregnancy would cause grave injury to her physical and mental health, taking into consideration her actual and reasonable circumstances. Thus, the petitioner has sought termination of her pregnancy in view of Fetal DNA report dated 23.10.2020 issued by the Department of Haematology, PGIMER, Chandigarh (Annexure P-1).

Vide order dated 28.10.2020, considering the nature of urgency and the DNA report dated 23.10.2020 issued by the Department of Haematology, PGIMER, Chandigarh, wherein it has been reported that the fetus is affected with Hemophilia 'A', this Court had directed the petitioner to appear in the office of Medical Superintendent, PGI, Chandigarh on 30.10.2020 at 10.00 AM so that she can be examined by the Medical Board, so constituted for the purpose of termination of pregnancy beyond 20 weeks. It was further directed that after examination of the petitioner by the Medical Board, a report of the Board be produced before this Court in a sealed cover on the adjourned date i.e. today on 02.11.2020.

Pursuant thereto, report of the Medical Board dated 31.10.2020 constituted for the purpose has been received in a sealed cover, which is taken on record. The contents of the report read as under:-

"Report of the Medical Board

Subject:

CWP No. 17856 of 2020 titled as Sandeep Kaur Vs UT Chandigarh and another regarding patient Ms Sandeep Kaur, W/O Mr. Inderjeet Singh, age 28 years, female, CR. No. 202002981394, R/o kasumbri, Fatehgarh Sahib, Punjab With reference to the directions from the Hon'ble Punjab and Haryana High Court, Chandigarh dated 28.10.2020 received in the MS office on 29.10.2020 from the Legal cell, PGIMER, Chandigarh wherein the Permanent Medical Board has been asked to medically examine the petitioner No.1 Ms Amandeep Kaur and submit the requisite medical examination report.

The petitioner Ms Sandeep Kaur appeared in the O/o Medical Superintendent on 30.10.2020 and was medically evaluated by the Medical Board at PGIMER, Chandigarh on dated 30.10.2020. Following are the observations:

1. As per USG done on 30/10/2020 the period of gestation is 22 wks + 4 days. She has a single live intrauterine fetus with no gross congenital malformation seen.
2. As per the DNA analysis report of fetal Amniotic fluid, done on 23.10.2020, the fetus has been diagnosed with Haemophilia A. The petitioner has a son Karanjot Singh, 11 months old, who is suffering from hemophilia A. Mother of Karanjot, petitioner Sandeep Kaur is pregnant and the fetus also has been diagnosed as Hemophilia A on antenatal diagnosis. Hemophilia is an inherited bleeding disorder in which the blood does not clot properly. This can lead to spontaneous excessive bleeding as well as bleeding following minor trauma or surgery. The treatment in such cases is lifelong and logistically very difficult in India. The quality of life is poor.
3. As the petitioner is a known Hemophilia A carrier, she may require Factor 8 support during MTP procedure.
4. The patient is also stressed due to carrying of pregnancy wherein the fetus is affected with Hemophilia A.
5. As per the Royal college of Obstetricians & Gynaecologists (RCOG) guidelines (Termination of pregnancy for fetal abnormality, 2010), in cases where medical abortion is being performed after 21 weeks + 6 days of gestation for fetal abnormalities, to prevent a live birth, ultrasound guided injection of Potassium Chloride in the fetal heart is advised prior to abortion.
6. Medical termination of pregnancy at an advanced gestation of 22 weeks + 4 days carries more than the usual risks which have been explained to patient.
7. Keeping in view the above, the Permanent Medical Board recommends that this patient may undergo medical termination of pregnancy at this stage due to Hemophilia A in the fetus. Since, the petitioner is a known Hemophilia A carrier, may require Factor 8 support during MTP procedure. We also wish to bring to the knowledge of the Hon'ble High Court that doctors will perform the procedure of Potassium Chloride injection in the fetal heart under ultrasound guidance before Termination of pregnancy, so as to prevent the fetus being born alive. Also, the medical termination of pregnancy at an advanced gestation of 22 weeks + 4 days carries more than the usual risks which have been explained to patient."

A perusal of above report shows that the Medical Board has recommended that the petitioner may undergo her medical pregnancy at this stage due to Hemophilia A in the fetus.

Mr. Amit Jhanji, learned counsel for the respondent no.2- PGIMER submits that in case the petitioner presents herself and if directed by this Court, the appropriate procedure for terminating the pregnancy can be undertaken at the earliest, as the fetus is affected with Hemophilia A.

After hearing learned counsel for the parties and keeping in view the report of

the Medical Board, which is an expert body, this Court directs that petitioner-Sandeep Kaur can undergo medical termination of the pregnancy. Accordingly, direction is issued to the PGIMER authorities (Medical Superintendent of the PGIMER) to admit petitioner-Sandeep Kaur, within a period of next two days, so as to carry out the procedure of the medical termination of her pregnancy, in case she present herself for undergoing the said procedure at the said institute, in accordance with law, keeping in view the recommendations, which have been submitted by the Medical Board, reproduced above.

It is made clear that in case for any reason the Head of the Department i.e. Medical Superintendent of the PGIMER is not available, the case of the petitioner shall be supervised by the next available seniormost doctor of the Department concerned. The PGIMER authorities shall do all that is needful for the aforesaid procedure and shall extend all the facilities to the petitioner, as may be required.

The writ petition is, accordingly, disposed of.

A copy of this order be given dasti to counsel for respondent no.2-PGIMER under the signatures of the Bench Secretary of this Court.