



\$~1

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9421/2024**

**MRS A**

.....Petitioner

Through: **Dr. Amit Mishra, Advocate with  
Petitioner in person.**

versus

**THE PRINCIPAL SECRETARY, HEALTH AND FAMILY  
WELFARE DEPARTMENT, GOVT. OF NCT OF DELHI & ORS.**

.....Respondents

Through: **Ms Hetu Arora Sethi, ASC for  
GNCTD with Mr. Nirmal Prasad,  
Advocate for R-1.**

**Mr. Satya Ranjan Swain, SPC with  
Mr. Kautilya Birat, Advocate for  
AIIMS/ R-3.**

**Ms. Arunima Dwivedi, CGSC with  
Mr. Aakash Pathak and Ms. Pinky  
Pawar, Advocates for R-UOI.**

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

%

**13.07.2024**

1. Through this petition, Petitioner, a married woman of 31 years, seeks directions for medical termination of her ongoing pregnancy. At the outset, it is noticed that an inadvertent error was recorded in the previous order of this Court dated 11<sup>th</sup> July, 2024. The Registry is directed to reflect the cause title as “*Mrs. A v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Ors.*”.



2. Briefly noted, the facts of the case are as follows:

2.1 Petitioner is a homemaker who got married to her husband on 18<sup>th</sup> February, 2022 and settled with him in Gwalior, Madhya Pradesh. Currently she is residing with her husband in New Delhi.

2.2 After learning that she had conceived a child, the Petitioner went for the first ultrasound scan on 16<sup>th</sup> January, 2024 which did not indicate any anomaly.

2.3 Later, on 21<sup>st</sup> February, 2024, she went for a second ultrasound scan and was informed that her ongoing pregnancy was normal.

2.4 Subsequently, on 15<sup>th</sup> April, 2024, the third ultrasound scan was conducted, which also indicated that the pregnancy of 20 weeks appeared to be normal, noting that - *“no obvious ultrasonographically detectable structural anomalies seen at this stage”*.

2.5 Similarly, the fourth ultrasound scan done on 01<sup>st</sup> May, 2024 also indicated a normal pregnancy.

2.6 Unfortunately, on 04<sup>th</sup> July, 2024, a fifth ultrasound scan with ‘Color Doppler’ was conducted and an abnormality of ‘Mild Hydrocephalus’ was detected in the foetus. Accordingly, the examining doctor referred the Petitioner to another Diagnostic Centre to verify the findings.

2.7 On the same day, the Petitioner went for a sixth ultrasound scan at a different diagnostic centre, wherein it was found that there is a single intrauterine pregnancy of 32 weeks 2 days with Mild IUGR (Intrauterine growth restriction). Further, it was noted that the foetal head shows dilatation of bilateral lateral ventricles.

2.8 In the seventh ultrasound scan, conducted on 05<sup>th</sup> July, 2024 by another diagnostic centre, the foetus was found to have the gestational age



corresponding to 31 weeks 3 days + 1 week(s) and ‘Non-Communicating Mild Hydrocephalus’ was seen.

2.9 In light of such ultrasound findings, on 8<sup>th</sup> July, 2024, the Petitioner sought the opinion of a gynaecologist who advised her to seek legal remedies for termination of pregnancy. Thereafter, on 9<sup>th</sup> July, 2024 the Petitioner underwent the eighth ultrasound scan, which diagnosed the ongoing pregnancy with ‘*bilateral ventricular dilatation s/o bilateral ventriculomegaly with IUGR with average ultrasound age 31 weeks 5 days*’.

3. In light of the above opinions and confirmations received by her from different diagnostics centres indicating the abnormality of ‘Ventriculomegaly’, the Petitioner has approached this Court for issuance of necessary directions allowing termination of pregnancy under Section 3(2B) and Section 3(3) of the Medical Termination of Pregnancy Act, 1971<sup>1</sup> read with the Guidelines for late term abortion dated 14<sup>th</sup> August, 2017, issued by the Ministry of Health and Family Welfare, Government of India.

4. In light of the facts narrated above, on 11<sup>th</sup> July, 2024, the Court directed the Medical Board of All India Institute of Medical Sciences<sup>2</sup> to examine the Petitioner and submit their medical opinion on her request for termination of pregnancy.

5. Accordingly, AIIMS has furnished a report dated 12<sup>th</sup> July, 2024, which is as follows:

---

<sup>1</sup> “MTP Act”

<sup>2</sup> “AIIMS”



**ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
Ansari Nagar, New Delhi – 110029**

No.F.2-93/Medical Board/2024-Estt. (H.)

Dated: 12.07.2024

**Sub.:** Report of the medical board constituted at AIIMS for medical examination of Petitioner Mrs. 'A' to undergo the procedure for Medical Termination of Pregnancy (MTP) in compliance of order dated 11.07.2024 of Hon'ble Mr. Justice Sanjeev Narula, High Court of Delhi vide W.P. (C.) 9421/2024, CM APPE. – 38638/2024 titled Mrs. A Versus The Principal Secretary, Health & Family Welfare Department, Govt. of NCT of Delhi & Ors.

\*\*\*\*\*

Details of the woman seeking termination of pregnancy:

1. Name of the woman: Mrs. 'A'
2. Age: 32 Years.
3. Registration/ Case Number: UHID-107658982.
4. **Additional review done at AIIMS:**

S. No.	Investigations done	Key Finding.
1.	Ultrasound done at AIIMS on 12.07.2024.	Ultrasonography suggest: <ul style="list-style-type: none"> <li>• Single live intra uterine foetus of 32 weeks 0 days GA. Estimated Foetal Weight -1676 grams</li> <li>• Corpus callosal agenesis with bilateral severe ventriculomegaly with mild FGR.</li> </ul>

5. Opinion by Medical Board for termination of pregnancy:
  - a) Allowed (  ).
  - b) Denied (  ).

**Justification for the decision:** In view of ultrasound findings, there is risk of neurological and intellectual disability in the new born.

Physical fitness of the woman for the termination of pregnancy:

- a. Yes (  ).
- b. No (  ).

6. The medical report provided by the AIIMS Medical Board is unequivocal and comprehensive. This Board, composed of multidisciplinary medical experts, has conducted an exhaustive review of the Petitioner's case, including performing an additional ultrasound scan. Their findings reveal substantial foetal abnormalities of '*Corpus callosal agenesis with bilateral severe ventriculomegaly with mild FGR*'.

7. The doctors comprising the AIIMS Medical Board, who participated in the court proceedings *via* video conferencing, provided a detailed explanation of their medical findings. They highlighted that the foetus



exhibits bilateral severe ventriculomegaly, characterized by an excessive accumulation of fluid in the brain cavities. In this instance, the extent of fluid buildup is classified as severe. Additionally, the doctors observed that another critical part of the brain has not developed normally. They elaborated on the likely prognosis, indicating that should the child be born, they would face significant challenges, with both locomotive and intellectual capacities being severely impaired.

8. Thus, in the opinion of the Court, the diagnosis in the present case clearly qualifies as substantial foetal abnormality with substantial risk of physical and mental handicap.

9. Section 3(2B) of the MTP Act permits a pregnant woman to seek termination of her pregnancy, beyond the permissible 24-week gestational age, in case the said pregnancy is found to have substantial foetal abnormalities. The Ministry of Health and Family Welfare, Government of India has issued guidelines dated 14<sup>th</sup> August, 2017, for late term termination of pregnancy referred to by a court of law. The guidelines give an indicative list that can be referred to by experts of the Medical Board to review the case of later term termination.

10. Pertinent to the present case, the guidelines classify the abnormalities of '*Corpus callosum agenesis with additional major abnormalities*' as well as '*Hydrocephalus over 20mm with dilation of all ventricles*' as major central nervous system abnormalities.

11. Thus, having regard to the aforementioned provisions and the clear and explicit medical report which suggests substantial foetal abnormalities, the Court is inclined to accept Petitioner's request. Moreover, given the scheme of the MTP Act, particularly of Section 3(3), in arriving at the ultimate



decision in such cases, the Court must also recognise and give due weightage to the choice of the mother and her foreseeable environment, as well as the possibility of a dignified life for the unborn child.

12. The doctors from the AIIMS Medical Board state that they have counselled the Petitioner and her husband and explained to them the procedure and the risks involved in such late term termination, to which the Petitioner is willing to undergo the procedure. The Court has also interacted with Petitioner and she has confirmed that this is her own personal decision and after receiving a medical opinion from AIIMS, she is inclined to terminate her pregnancy.

13. In light of the above, this Court accepts the AIIMS Medical Board's recommendation. The continuation of the pregnancy poses a significant risk to the Petitioner's physical and mental health and is likely to result in the birth of a child with severe health issues. Consequently, the Court finds it appropriate to permit the termination of the pregnancy in the best interest of both the Petitioner and the unborn foetus.

14. For the reasons recorded above, the writ petition is allowed. Petitioner is permitted to undergo medical termination of pregnancy at a medical facility of her choice. The possible complications of the procedure for termination at this stage have been explained to the Petitioner. She has to take the final decision to undergo the procedure of medical termination of pregnancy, which would be at her own risk and consequences.

15. It is clarified that the doctors who have contributed their opinions as part of the Medical Board shall have immunity in the event of any litigation arising out of this petition.

16. With the above directions, the present petition is disposed of, along



with pending application(s), if any.

17. A copy of this order shall be supplied to the counsel for the parties *via* email by the Court Master.

**JULY 13, 2024**  
*d.negi*

**SANJEEV NARULA, J**