X vs Union Of India on 16 October, 2023

Author: Dhananjaya Y Chandrachud

Bench: Dhananjaya Y Chandrachud

Reportable

2023 INSC 919

IN THE SUPREME COURT OF INDIA
ORIGINAL WRIT JURISDICTION

Miscellaneous Application No. 2157 of 2023
in
Writ Petition (Civil) No. 1137 of 2023

X … Petitioner

Versus

Union of India and Anr. …Respondents

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JUDGMENT

Dr Dhananjaya Y Chandrachud, CJI

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A. Facts and procedural history

1. The Registry is directed to anonymize the name of the petitioner in this judgment, all orders that have been passed as well as in the records which are publicly available.

2. The petitioner is a married woman of twenty-seven years. She and her husband have two children, the younger of which is about one year old. She filed the petition under Article 32 for directions to the respondents to permit a medical termination of her ongoing pregnancy. The petitioner states that she did not discover that she was pregnant until after twenty weeks of the pregnancy had elapsed because she had lactational amenorrhea. As a result of lactational amenorrhea, women who are breastfeeding do not menstruate. She therefore did not realize that the absence of menstruation was indicative of pregnancy. The petitioner states that she visited the gynaecologist for the first time after the delivery of her second child because she was feeling weak, nauseous, dizzy and experiencing abdominal discomfort. She underwent an ultrasound scan, upon which she realized that she was pregnant. The pregnancy was estimated to be

around twenty-four weeks at that time.

3. The petitioner avers that she and her husband attempted to medically terminate the pregnancy at various hospitals but that they were unable to because of the Medical Termination of Pregnancy Act 1971 1 read with the Medical Termination of Pregnancy Rules 2003 2 (as amended in 2021). She therefore

1 “MTP Act”
2 “MTP Rules”

approached this Court by invoking its writ jurisdiction. She sought permission for the medical termination of her pregnancy on the following grounds:

a. She suffers from post-partum depression and her mental condition does not permit her to raise another child; and

b. Her husband is the only earning member of their family and they already have two children to care for. Additionally, they have other family members who depend on them.

4. The matter was listed before a two-Judge Bench comprising Hima Kohli, J. and B V Nagarathna, J. on 5 October 2023. On the same day, the Bench directed the petitioner to appear before a Medical Board constituted by the All India Institute of Medical Sciences, New Delhi. 3 The report submitted to this Court by the Medical Board is extracted below:

“Details of the woman seeking termination of pregnancy:

1. ...

2. Age : 27 years.

3. Registration/Case Number: UHID – 107060237.

4. Additional review done at AIIMS:

S.No.	Investigations done	Key findin
1	Ultrasound done at AIIMS on 20.09.2023	Ultrasonography sug live intra uterine weeks 5 days POG. E Fetal Weight – 886 gm. Placenta upper

5. Opinion by Medical Board for termination of pregnancy:

(a) Allowed (X)
(b) Denied ( )
Justification for the decision:

The case has been reviewed by the medical board. The weight of the baby by the 3 "AIIMS" scan done on 06/10/2023 is 886gm with gestational age of 25 weeks 5 days.

As per the current status, the baby is viable and has a reasonable chance of survival.

The chances of post partum psychosis of which the couple is worried of, are present even at this gestation following delivery.

The mother is a previous 2 LSCS and the chances of complications dueto hysterotomy are there at this gestation.

In such a scenario, the termination of pregnancy may be reconsidered. The option of antenatal care and delivery at AIIMS, New Delhi has been discussed with the couple.

6. Physical fitness of the woman for the termination of pregnancy:

(a) Yes ( )
(b) No ( ) "

By its order dated 9 October 2023, this Court allowed the petition and permitted the medical termination of the pregnancy on the ground that continuing with the pregnancy could seriously imperil the mental health of the petitioner. The order was pronounced in Court and the reasons were to follow later.

5. On 10 October 2023, a doctor from AIIMS (who was a member of the Medical Board which examined the petitioner) emailed Ms. Aishwarya Bhati, learned ASG, stating that the foetus has a strong chance of survival and seeking directions from this Court as to whether the foetal heartbeat

ought to be stopped. The email also stated that if the foetal heartbeat was not stopped, the baby would be placed in an intensive care unit and that there was a high possibility of immediate and long-term physical and mental disability. AIIMS sought a direction from the Court as to whether a foeticide should be carried out. The email is extracted below:

> "... This is regarding the Supreme Court order dated 9.10.2023, regarding termination of pregnancy of Ms .... Before proceeding for termination, we would request the following clarifications from the Hon Supreme Court:
>
> As the baby is currently viable (will show signs of life and have a strong possibility of survival), we will need a directive from the Supreme court on whether a feticide (stopping the fetal heart) can be done before termination. We perform this procedure for a fetus which has abnormal development, but generally not done in a normal fetus.
>
> If fetecide is not performed, this Is not a termination, but a preterm delivery where the baby born will be provided treatment and care. A baby who Is born preterm and also of such low birth weight will have a long stay in intensive care unit, with a high possibility of immediate and long term physical and mental disability which will seriously jeopardise the quality of life of the child. In such a scenario, a directive needs to be given as to what is to be done with the baby? If the parents agree to keep the child this will take a major physical, mental, emotional and financial toll on the couple.
>
> If it is to go for adoption, the process needs to be spelt out clearly as to needs to clear that baby who comes into the world will have a better chance at life if the delivery happens after at least 8 weeks.
>
> It Is also to be kept In mind that the consequences of delivery which have happened in the previous two babies can happen at this time also, with a delivery now at this time.
>
> We would be obliged if a directive on these is given by the Hon Supreme Court to ease out the process.
>
> ..."

6. Ms. Bhati mentioned the case at 4 pm on 10 October 2023 before the Bench presided over by the Chief Justice. Ms Bhati informed this Court that in view of the email extracted above and the ensuing urgency, she mentioned the matter before Kohli, J (Nagarathna J was presiding over another Bench) and requested that it be listed. Kohli, J. orally informed Ms. Bhati that she was functus officio after passing the order dated 9 October 2023 and that the matter ought to be mentioned before the Chief Justice of India so that he may exercise his powers on the administrative side and constitute a bench to hear the matter. As stated above, Ms. Bhati mentioned the matter

before the Bench presided over by the Chief Justice. The ASG stated that she would move a recall application, before the same bench which had heard the petition earlier the urgency arising as a result of the fact that the Court had directed an MTP to be carried out immediately upon the petitioner reporting to AIIMS. This was the appropriate course on the part of the ASG to follow since the Judges who had heard the petition (Justices Kohli and Nagarathna) were not sitting as a Bench thereafter and a special Bench had to be constituted. This lay within the powers of the Chief Justice on the administrative side. The Chief Justice constituted the same two-Judge Bench comprising of Kohli, J. and Nagarathna, J. to hear the application for recall of the order dated 9 October 2023 and the case was directed to be notified on the next day in the sitting list of 11 October 2023.

7. The two-Judge Bench heard the counsel for the petitioners as well as the ASG. At this juncture, the petitioner filed an affidavit which stated, "I have made a wilful and conscious decision to medically terminate my pregnancy and don't want to keep the baby even if survives."

8. The judges were unable to agree when the application moved by the ASG was heard and delivered a split verdict. In her judgment, Kohli, J. held that her judicial conscience prevented her from allowing the prayer in view of the email sent to Ms. Bhati. Nagarathna, J., on the other hand, held that the order dated 9 October 2023 ought not to be overturned for the following reasons:

> a. The interest of the mother, who already had two children and would deliver a third child within a year of delivering the second, must be given preference;
>
> b. The socio-economic conditions and the mental state of the petitioner must be considered by this Court;
>
> c. The decision of the petitioner ought to be respected and must not be substituted by the decision of this Court; and d. A foetus is dependent on the mother and cannot be recognized as a personality apart from that of the mother as its very existence is owed to the mother.

9. Following the split verdict, the petition was directed to be listed before the present three judge Bench, in view of the difference of opinion between the two judges on the application for recall of the order dated 9 October 2023. On 13 October 2023, this Court passed an order calling for a further report from AIIMS on certain specific issues. They were formulated thus:

> "(i) Whether the fetus is suffering from any abnormality as provided by subsection 2(b) of Section 3 of the Act. Though the earlier report mentions that the fetus is normal, nonetheless, in order to place the matter beyond doubt, we request a further report to be submitted on the above aspect;
>
> (ii) Whether the continuance of the pregnancy of the petitioner to full term would be jeopardised by the drugs which may be prescribed for the alleged condition from which the petitioner is stated to be suffering; and

> (iii) The medical professionals at AIIMS would be at liberty to carry out their own diagnosis in regard to the alleged medical condition and to indicate their own independent evaluation of the mental and physical condition of the petitioner.

Upon doing so, we request the doctors to apprise this Court if the petitioner is found to be suffering from post partum psychosis and whether any alternate administration of medication consistent with the pregnancy would be available so as to neither jeopardise the well-being of the petitioner or the fetus in that regard. This exercise shall be carried out during the course of the day."

10. The Medical Board constituted by AIIMS comprised of nine doctors, including in the fields of obstetrics and gynaecology, paediatrics, and psychiatry. The conclusions in the report submitted by the Medical Board to this Court are extracted below:

> "1. As assessed by USG and Fetal Echo, the fetus does not have any structural anomaly at the present time.(Report attached).Here the board would also like to put on record that all abnormalities cannot be picked up on USG scans.
>
> 2. The continuation of pregnancy to full term while the woman is on the revised medications (as advised by the psychiatrist on the board) is not likely to significantly increase the risk of adverse outcomes for the mother and fetus as compared to other pregnant woman.
>
> 3. On a psychiatric assessment the board is of the opinion that she has a past history of postpartum psychosis, currently controlled on medications. Her medications have been reviewed and revised for an optimal management. It is felt that with proper care and treatment under appropriate medical supervision, the mother and baby can be managed well during pregnancy and postpartum as has been previously evidenced by her response to medications in case of worsening of symptoms, she may be admitted and treated."

11. Hence, the points put to the Medical Board for determination were answered in the following terms:

> a. No abnormality has been detected in the foetus;
>
> b. The continuation of the pregnancy would not be jeopardised by the medication which the petitioner is currently taking; and c. The petitioner has a history of postpartum psychosis which is currently being controlled on medication.
>
> A revised medication regime was prescribed for optimal management of the postpartum psychosis.

12. The issues which arise for the consideration of this Court are:

a. What is the nature of the jurisdiction under which this Court is adjudicating this case; and b. Can the relief sought in the writ petition be granted?

B. Medical termination of pregnancies

13. The termination of pregnancies is governed by the MTP Act and the rules framed under it. The MTP Act is a progressive legislation which regulates the manner in which pregnancies may be terminated. Section 3 spells out certain conditions which must be satisfied before a pregnancy can be terminated.4 The 4 “Section 3 - When pregnancies may be terminated by registered medical practitioners (1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

2[(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,--

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are, of the opinion, formed in good faith, that- -

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.--For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman. Explanation 2.--For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. (2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the

diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board. (2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act. (2D) The Medical Board shall consist of the following, namely:-- (a) a Gynaecologist; (b) a Paediatrician;

(c) a Radiologist or Sonologist; and (d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be. conditions depend upon the length of the pregnancy. Where the length of the pregnancy does not exceed twenty weeks, one Registered Medical Practitioner 5 must be of the opinion, formed in good faith, that: 6 a. The continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health.7 The anguish caused by a pregnancy which occurs due to the failure of a contraceptive method is presumed to constitute a grave injury to the mental health of the woman; 8 or b. There is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality. 9 Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy is presumed to constitute a grave injury to the mental health of the woman. 10 The presumption adverted to in (a) above makes it evident that the MTP Act recognizes the autonomy of the pregnant woman and respects her right to choose the course of her life. (3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who having attained the age of eighteen years, is a mentally ill person, shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman." 5 "RMP" as defined under Section 2(d) of the MTP Act 6 Section 3(2)(a), MTP Act 7 Section 3(2)(b)(i), MTP Act 8 Explanation 1 to Section 3(2), MTP Act 9 Section 3(2)(b)(ii), MTP Act 10 Explanation 2 to Section 3(2), MTP Act

14. Where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks, two RMPs must be of the opinion discussed in the preceding paragraph.11 The categories of women where a pregnancy beyond 20 weeks and up to 24 weeks may be terminated are permitted to be prescribed by rules made by the delegate of the legislature. Rule 3B of the MTP Rules (as amended in 2021) provides grounds for the termination of a pregnancy up to twenty-four weeks. The termination may be allowed in the following cases or for the following persons:

a. Survivors of sexual assault or rape or incest;

b. Minors;

c. Change of marital status during the ongoing pregnancy (widowhood and

divorce);

d. Women with physical disabilities with a major disability in terms of the

criteria laid down under the Rights of Persons with Disabilities Act 2016; e. Mentally ill women including mental retardation;

f. Foetal malformation that has a substantial risk of being incompatible with life or where in the event of birth, the child may suffer from physical or mental abnormalities and be seriously handicapped; and 11 Section 3(2)(b), MTP Act g. Women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.12 In X v. Principal Secretary, Department of Health and Family Welfare, GNCTD, 13 this Court held that the benefits of Rule 3B(c) extend equally to both single and married women and that the benefits of Rule 3B extend to all women who undergo a change in their material circumstances.

15. Significantly, if in the opinion of an RMP, the termination of a pregnancy is immediately necessary to save the life of a pregnant woman, the provisions of Section 3 which relate to the length of the pregnancy and the opinion of two RMPs shall not apply. 14 Section 4 (which concerns the place at which a pregnancy may be terminated) shall not apply to such cases as well. The design of the statute makes it evident that saving the life of the pregnant woman is of paramount importance, notwithstanding the length of the pregnancy. 12 Rule 3B, MTP Rules: 3-B. Women eligible for termination of pregnancy up to twenty-four weeks.— The following categories of women shall be considered eligible for termination of pregnancy under clause (b) of sub-section (2) Section 3 of the Act, for a period of up to twenty-four weeks, namely—

(a) survivors of sexual assault or rape or incest; (b) minors;

(c) change of marital status during the ongoing pregnancy (widowhood and divorce);

(d) women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016 (49 of 2016)];

(e) mentally ill women including mental retardation;

(f) the foetal malformation that has substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped; and

(g) women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.

13 2022 SCC OnLine SC 1321 14 Section 5, MTP Act: 5. Sections 3 and 4 when not to apply.—(1) The provisions of Section 4, and so much of the provisions of sub-section (2) of Section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall

not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman. ...

16. Further, the provisions of Section 3(2) relating to the length of the pregnancy shall not apply to the termination of a pregnancy by an RMP, where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board. 15 The Medical Board has the power to allow or deny the termination of a pregnancy the length of which is beyond twenty-four weeks. 16 It may do so only after ensuring that the procedure would be safe for the woman at that gestation age and after considering whether the foetal malformation leads to a substantial risk of the foetus being incompatible with life, or where the child (if it is born) may suffer from such physical or mental abnormalities as to be seriously handicapped. 17 Therefore, the outer temporal limit within which a pregnancy may be terminated is lifted in some cases.

17. The position of law can therefore be summarized as follows:

> Length of the pregnancy Requirements for termination Up to twenty weeks Opinion of one RMP in terms of Section 3(2) Between twenty and twenty-four Opinion of two RMPs in terms of weeks Section 3(2) read with Rule 3B.
>
> If the termination is required to save the life of the pregnant woman, the opinion of one RMP in terms of Section Beyond twenty-four weeks If there are substantial foetal abnormalities, with the approval of the 15 Section 3(2B), MTP Act 16 Rule 3A(a)(i), MTP Rules 17 Ibid Medical Board in terms of Section 3(2B) read with Rule 3A(a)(i) C. Analysis i. The jurisdiction of this Court to hear this case
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> 18. Having described the factual background, the procedural history, and the framework of law, we turn to the issues raised in this case. As noticed in the first segment of this judgment, the Union of India filed an application for the recall of the order dated 9 October 2023 passed by a two-Judge Bench of this Court on the ground that one of the doctors on the Medical Board emailed the learned ASG, seeking a clarification of that order.
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> 19. It is trite law that once a judgment or order attains finality, a party seeking to challenge the decision rendered may do so only by taking recourse to one of the following:
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> a. Invoking the jurisdiction of the court to review the judgment or order;
>
> b. Preferring an appeal against the judgment or order (where an appeal lies); or c. In the case of the Supreme Court, filing a curative petition;

The reason for the availability of a limited number of routes by which a judgment can be challenged is that there must be quietus to a dispute. Unlimited modes by which judgments or orders can be

challenged would result in chaos, uncertainty, and unpredictability. This is also the reason why an application for recall of an order or judgment cannot be entertained by this Court, save and except in exceptional circumstances such as where a party which is directly affected was not served with notice of the proceedings. Otherwise, the hearing and disposal of an application for recall may even have the effect of creating an intra-court appeal, which is impermissible and wholly unknown to this Court. Indeed, this Court has repeatedly deprecated the practice of filing applications for recall and noted that they may sometimes be an abuse of the process of the law. 18

20. In the present case, the Union of India filed an application for recall because certain aspects of the situation at hand were brought to its attention after the petition was disposed of by the order dated 9 October 2023. We have no doubt that there was no intention to abuse the process of the law. However, the appropriate procedure which it ought to have followed would be to file a Review Petition, accompanied by an application for urgent listing and an application for hearing in open court, given the urgency of the matter. The Bench consisting of Kohli and Nagarathna, JJ agreed to hear the matter. The immense urgency at that time did not permit this Court to address the reasons for doing so. The reasons are addressed presently.

21. Under Article 142 of the Constitution, this Court has the power to pass such decree or make such order as is necessary for doing complete justice in any cause 18 Delhi Admn. v. Gurdip Singh Uban, (2000) 7 SCC 296; Order dated 3 September 2020 in M.A. No.1434 of 2020 in Misc. Application Diary No.15272 of 2020 in Suo Moto Contempt Petition (Criminal) or matter pending before it. In State v. Kalyan Singh, 19 this Court observed that Article 142 permitted it to relax the application of law depending upon the particular facts and circumstances of the case:

> “22. … This article gives a very wide power to do complete justice to the parties before the Court, a power which exists in the Supreme Court because the judgment delivered by it will finally end the litigation between the parties. It is important to notice that Article 142 follows upon Article 141 of the Constitution, in which it is stated that the law declared by the Supreme Court shall be binding on all courts within the territory of India. Thus, every judgment delivered by the Supreme Court has two components — the law declared which binds courts in future litigation between persons, and the doing of complete justice in any cause or matter which is pending before it. It is, in fact, an Article that turns one of the maxims of equity on its head, namely, that equity follows the law. By Article 142, as has been held inState of Punjab [State of Punjab v. Rafiq Masih, (2014) 8 SCC 883: (2014) 4 SCC (Civ) 657: (2014) 6 SCC (Cri) 154: (2014) 3 SCC (L&S) 134] judgment, equity has been given precedence over law. But it is not the kind of equity which can disregard mandatory substantive provisions of law when the court issues directions under Article 142. While moulding relief, the court can go to the extent of relaxing the application of law to the parties or exempting altogether the parties from the rigours of the law in view of the peculiar facts and circumstances of the case. This being so, it is clear that this Court has the power, nay, the duty to do complete justice in a case when found necessary. … ” (emphasis supplied)

22. In the present case, this Court is justified in exercising its jurisdiction under Article 142 in view of the following circumstances:

a. This is not an ordinary civil case. Rather, it is one which concerns the viability of a medical termination of a pregnancy and the course of action to be adopted by the doctors on the basis of the development of the foetus;

b. Certain aspects of the case which ought to have been brought to the attention of this Court came to light after the order dated 9 October 2023

19 (2017) 7 SCC 444 had been passed. This was not within the control of any of the parties to the case but was the result of the actions of a third party altogether (the Medical Board). However, this information could have had a bearing on the directions issued by this Court; and c. There was immense urgency in this matter.

ii. Decision on the prayer

23. We now turn to the issue of whether the relief sought in the writ petition can be granted.

24. As noticed above, the length of the pregnancy has crossed twenty-four weeks. It is now approximately twenty-six weeks and five days. A medical termination of the pregnancy cannot be permitted for the following reasons:

a. Having crossed the statutory limit of twenty-four weeks, the requirements in either of Section 3(2B) or Section 5 must be met;

b. There are no "substantial foetal abnormalities" diagnosed by a Medical Board in this case, in terms of Section 3(2B). This Court called for a second medical report from AIIMS to ensure that the facts of the case were accurately placed before it and no foetal abnormality was detected;

and c. Neither of the two reports submitted by the Medical Boards indicates that a termination is immediately necessary to save the life of the petitioner, in terms of Section 5.

25. Under Article 142 of the Constitution, this Court has the power to do complete justice. However, this power may not be attracted in every case. If a medical termination were to be conducted at this stage, the doctors would be faced with a viable foetus. One of the options before this Court, which the email from AIIMS has flagged, is for it to direct the doctors to stop the heartbeat. This Court is averse to issuing a direction of this nature for the reasons recorded in the preceding paragraph. The petitioner, too, did not wish for this Court to issue such a direction. This was communicated by her to the court during the course of the hearing. In the absence of a direction to stop the heartbeat, the viable foetus would be faced with a significant risk of lifelong physical and mental disabilities. The reports submitted by the Medical Board speak for themselves.

26. For these reasons, we do not accede to the prayer for the medical termination of the pregnancy.

27. The delivery will be conducted by AIIMS at the appropriate time. The Union Government has undertaken to pay all the medical costs for the delivery and incidental to it.

28. Should the petitioner be inclined to give the child up for adoption, the Union Government has stated through the submission of the ASG that they shall ensure that this process takes place at the earliest, and in a smooth fashion. Needless to say, the decision of whether to give the child up for adoption is entirely that of the parents.

29. The application for recall of the order dated 9 October 2023 is allowed. The petition and the application are disposed of in terms of the directions above.

30. Pending applications (if any) stand disposed of.

... ... C J I [D r D h a n a n j a y a Y C h a n d r a c h u d]
.....J [J B Pardiwala] .....J [Manoj Misra]
New Delhi;

October 16, 2023