GAHC040013952026 2026:GAU-AP:864

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/407/2026

Ms X
represented by Smti Summan Magria, Wife of Shri Take Mangria, resident of Village Magria, Po and PS Daporijo, Upper Subansiri District, Arunachal Pradesh. 791122

VERSUS

The State of AP and 4 Ors
represented through the Secretary, Department of Health and Family Welfare, Govt of Arunachal Pradesh, Itanagar

2:The Director of Health Services
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar.

3:The Director
Age: 0
Occupation :
Tomo Riba Institute of Health and Medical Science (TRIHMS)
Govt of Arunachal Pradesh
Naharlagun

4:The Competent Medical Board
Age: 0
Occupation :
Govt of Arunachal Pradesh
through the Director of Health Services
Arunachal Pradesh.

5:The Child Welfare Committee
Age: 0

Occupation :
Upper Subansiri District
Arunachal Pradesh
through the Chairperson

Advocate for the Petitioner : Kamal Saxena, Chime Siram,Anu Zongluju,Wanglak Wangsa,Moni Bori,Uttam Bori

Advocate for the Respondent : Taba Tagum, SC(Health)

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioner: Shri U. Bori

Advocates for the respondents : Shri T. Tagum, SC-Health Deptt.

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 31.08.2026

Whether the pronouncement is of the
operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

Heard Shri U. Bori, learned counsel for the petitioner. Also heard Shri T. Tagum, learned Standing Counsel, Health & Family Welfare Department.

2. Considering the subject matter involved and as agreed to by the learned counsel for the parties, the instant writ petition is taken up for disposal at the motion stage. Suffice it to mention that the matter had come up for consideration on two earlier occasions when this Court had directed for

constitution of a Medical Board and examination of the case of the petitioner, pursuant to which a report has also been presented before this Court.

3. Bereft of details, the facts, as projected, are that the petitioner, represented by her mother, is a victim of sexual assault and is presently pregnant of approximately 27 weeks, who does not wish to continue with the pregnancy. In connection with the offence, Daporijo Case No.58/2026 has been lodged under Sections 65(1) and 351(2) of the BNS, 2023 read with Section 6 of the POCSO Act. It is the categorical case of the petitioner that she came to know of the pregnancy only after substantial advancement and the pregnancy was not externally apparent and there was no disclosure from the minor to her parents of the incident earlier.

4. The reliefs, sought for in this case, are as follows:

"***PRAYER***

In the premises aforesaid, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

A. Issue a writ in the nature of mandamus directing Respondent Nos. 2 and 3 to forthwith constitute a competent Medical a Board comprising appropriate specialists, including Gynaecologist, Paediatrician, Radiologist/Sonologist and such other specialist(s) as may be considered necessary, for Immediate examination of the minor girl "Ms. X";

B. Direct the Medical Board to immediately examine the minor and determine her exact gestational age, physical condition, mental and psychological condition, foetal condition, risks of continuation of pregnancy, risks associated with termination at approximately 27 weeks and the feasibility and safety of medical termination;

C. Direct the Medical Board to submit its report before this Hon'ble Court within 24 hours or within such short period as this Hon'ble Court may deem fit, having regard to the advanced gestational age of the minor;

D. Upon consideration of the Medical Board's report and the wishes of the minor, direct the concerned medical authorities to undertake medical termination of the pregnancy of the minor girl, notwithstanding that the gestational age has crossed 24 weeks, if the same is found medically feasible and safe, subject to such safeguards as this Hon'ble Court may deem appropriate;

E. Direct the concerned child-protection authority to ensure that the wishes of the minor are ascertained in a child-sensitive manner and that she is not subjected to coercion, pressure, intimidation or further trauma;

F. Direct all concerned authorities, medical personnel and parties to maintain strict confidentiality regarding the identity of the minor and all medical records and proceedings relating to her;

G. Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

-AND-

Pending final disposal of the present writ petition, the Petitioner most respectfully prays that this Hon'ble Court may graciously be pleased to direct the Respondent Health authorities to constitute a competent Medical Board for medical examination of the minor and determination of the exact gestational age and to submit the report within 24 hours or such shorter period as this Hon'ble Court may deem fit and proper."

5. As indicated above, this Court vide an order dated 26.08.2026, after taking

into account the recent judgment of the Hon'ble Supreme Court passed in Civil Appeal No.6667/2026 decided on 24.04.2026 [***S. Vs. Union of India***] had directed constitution of a competent Medical Board on priority and submit a report before the next date fixed i.e. 28.08.2026. Shri Tagum, learned Standing Counsel has informed this Court regarding compliance of the direction and also placed the report of the Medical Board.

6. The report of the Medical Board reads as follows:

"***Medical Board Report***

Name:- Miss Yade Nilling, D/o Shri. Take Magrin

Age: 15 years, Female

Address: Lidu colony, Daporijo, District Upper Subansiri (A.P)

Case No: W.P. (c) no.407 (A.P)/2026 and Daporijo Case No 58/2026 dated 20/08/26.

Dated: 27/08/26

Time: 10:30 A.M

Venue: Conference Hall, 4th Floor, Block-II

Determine exact gestational age*: ultrasound report of 20/8/2026 shows single live fetus 26-week 3days so, she is 27 weeks 3 day on day of examination by ultrasound report.*

Physically*: Fit for medical or surgical intervention.*

Mental & Psychological*: Current mental state- she is calm and cooperative with good rapport and eye contact, normal speech and euthymic mood; she is worried regarding the current situation, however*

no syndrommal depressive or anxiety symptoms or suicidal thoughts reported or elicited (HAM-D score= 4, /HAM-A score 4: suggests no significant anxiety or depressive symptoms). No psychotic symptoms reported or elicited; her judgement is intact and insight is present. ***All these suggest no major mental or psychological disorder at the time of examination****.*

Foetal Condition*: Single alive fetus.*

Risk of continuation of Pregnancy*: Teenage pregnancy is a high-risk pregnancy condition.*

Risk associated with Termination at 27 weeks-feasibility & safety of medical termination of pregnancy*: - (i) All procedure even a very minor surgery procedures has unforeseen associated risk.*

(ii) Because of advanced gestational age, chances of alive baby may be born.

(iii) Risk of bleeding during procedure, hysterotomy surgery due to failed medical method of abortion, risk of other organ structure like urinary & bowel injury are rare possible complications in MTP procedure. Considering the above risk factor associated with MTP procedure, written consent has to be explained and obtained from to survivor & guardian for MTP procedure."

7. Shri Bori, learned counsel for the petitioner, by relying upon the aforesaid case of ***S. Vs. Union of India*** has submitted that the facts of the present case is almost identical to the facts of the case before the Hon'ble Supreme Court. In the case before the Hon'ble Supreme Court, there was a live pregnancy of about 27 weeks and the medical practitioners had refused to perform the procedure

for termination of pregnancy. Such decision was also upheld by the Hon'ble Delhi High Court which was the subject matter of challenge in the Hon'ble Supreme Court. The Hon'ble Supreme Court had directed constitution of a Medical Board and submit a report which was accordingly done. In paragraph 10 of the said judgment, certain conditions were recorded by the Hon'ble Supreme Court which are extracted hereinbelow:

> "*10. We have to take note of certain dispositive factors in the present case:*
>
> *firstly, that the child to be born is not out of a wedlock but out of a consensual relationship between two minors. The pregnancy itself is an unwanted pregnancy.*
>
> *secondly, the mother-to-be, being herself a minor, has unequivocally expressed her unwillingness to continue with the pregnancy through her mother, the appellant herein.*
>
> *thirdly, in the present case, the minor has already exhibited signs of psychological distress, including two attempts to take her own life. Thus, forcing continuation of the pregnancy would amount to a direct affront to her right to live with dignity.*
>
> *fourthly, the continuation of such an unwanted pregnancy could have long-lasting repercussions on the minor's mental health, educational prospects, social standing, and overall development."*

8. The Hon'ble Supreme Court had also laid down that while exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, priority has to be given to the best interest of the minor mother-to-be over the procedural and statutory limitations under the Medical Termination of Pregnancy

Act. It has further been held that if the interest and welfare of the mother-to-be are to be given due consideration, her reproductive autonomy must be accorded the highest importance.

9. This Court has noted that the report dated 27.08.2026 in the present case is almost in the same lines as the report connected with the case before the Hon'ble Supreme Court.

10. Considering the guidelines laid down by the Hon'ble Supreme Court and also the findings arrived at by the duly constituted Medical Board, as evident from the report dated 27.08.2026, this Court allows this writ petition by permitting the petitioner to undergo the medical termination of the pregnancy. The petitioner represented by her guardian (mother) shall furnish necessary undertaking consenting to the medical termination of pregnancy which is in fact is the cause of action espoused before this Court.

11. The writ petition accordingly stands allowed.

JUDGE

Comparing Assistant