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WP No. 42910 of 2



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-10-2026

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THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 42910 of 2026
CNR: {HCMA012526052026}

B T Pavithra Kumari



..Petitioner(s)

Vs

1. The Secretary
Health and Family Welfare Department,
Government of Tamil Nadu,
Namakkal Kavignar Maaligai,
Fort St.George, Secretariat,
Chennai
2. The Registrar
Tamil Nadu Medical Council,
No. 959 and 960, Poonamallee High Road,
Purasaiwakkam,
Chennai 84
3. The Chairman
Institute of Obstetrics and Gynaecology and
Government Hospital for Women and Children,
No.2, Pantheon Road,
Egmore,
Chennai 08

..Respondent(s)

Prayer: This writ petition is filed under Article 226 of the Constitution of India, seeking writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in Form D on 13.10.2026 quash the same and consequently directing the respondents to terminate the medical pregnancy of petitioner as per the medical records and consider the



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petitioner's representation dated on 13.10.2026.

For Petitioner(s):

Mr.N.Manokaran
For Mr. A.Kanakavelappan

For Respondent(s):

Mr.J.V.Sakthi Balakrishnan
Government Advocate
R1 & R3

Mr.V.Bharanidharan
Standing Counsel
R2

Order

This writ petition is filed for the following relief:

“To call for the records relating to the impugned order passed by the 3rd respondent in Form D on 13.10.2026 quash the same and consequently directing the respondents to terminate the medical pregnancy of petitioner as per the medical records and consider the petitioner's representation dated on 13.10.2026.”

2. The petitioner married one Vignesh on 14.12.2022. After the marriage, they were blessed with a male baby, namely, Elaija on 15.02.2024. The petitioner would submit that in the beginning of 2026, the petitioner conceived for the second time and regularly took treatment. The case of the petitioner is that in her TRIMESTER SCAN REPORT, it revealed that there was mild fetal



ventriculomegaly. The petitioner took a second opinion and the second opinion also confirmed the same. Therefore, the petitioner and her husband expressed their consent to terminate the petitioner's pregnancy. However, the 3rd respondent refused and asked the petitioner to take genetic test. Therefore, the petitioner is before this Court.

3. Heard the learned counsels on the either side and perused the records.

4. It is challenging the refusal to grant approval for the termination of pregnancy, the petitioner is before this Court.

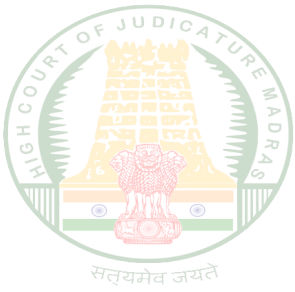
5. A reading of the affidavit would indicate that the petitioner and her husband are already blessed with son, Elaija, who was born on 15.02.2024. The petitioner had conceived for the second time in the beginning of 2026. On 01.03.2026, when she had taken a scan at Scan India, the impression has been recorded as follows:

*“SINGLE VIABLE INTRAUTERINE GESTATION OF
GESTATIONAL AGE APPROXIMATELY CORRESPONDING TO
19 - 20 WEEKS DURATION.*

NORMAL LIQUOR

PRESENT EXPECTED FETAL WEIGHT 301 +/- 100 GMS

DOPPLER STUDY OF THE UMBILICAL ARTERY SHOWS



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SATISFACTORY SYSTOLIC AND DIASTOLIC FLOW.

MATERNAL:

CERVIX ---- 3.0 CM.

INTERNAL OS CLOSED

The petitioner was directed to have a follow up scans at 28 weeks of gestation. The expected date of delivery was given as 06.12.2026.

6. The OB – 2/3 TRIMESTER SCAN REPORT threw up the following impression:

“Single live intra uterine gestation corresponding to 28 Weeks 2 days GA.

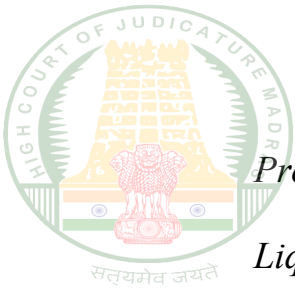
Liquor- Adequate

Mild fetal ventriculomegaly

7. In the light of the impression of mild fetal ventriculomegaly, the petitioner had undergone ultrasound scan on 05.10.2026. The scan report would show that an extended neurosonography was done with reference to the head and the impression generated was as follows:

“Single intrauterine gestation corresponding to a gestational age of 30 weeks 3 days gestational age assigned as per biometry (CRL) on 05.06.2026 (previous scan) Menstrual age 31 weeks 1 Day

Corrected EDD 11.12.2026



Presentation – Cephalic

Liquor – Normal

Estimated fetal weight according to BPD, HC, AC, FL: 1379 + / -

137.9 gms

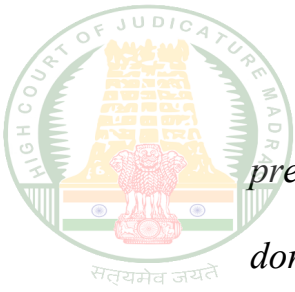
Growth, liquor and fetal activity – Normal”

8. Further, a detailed finding was given which would read as follows

“Today scan findings explained to the patient and her mother

In today’s scan the growth, liquor and activity is normal. On extended neurosonography. We have noted agenesis of corpus callosum. Bilateral moderate ventriculomegaly noted. Rest of the fetus appears structurally normal for the period of gestation. Detailed neurosonogram done which shows otherwise normal intracranial anatomy. We have advised Fetal Brain MRI to rule out other cerebral abnormalities (Cortical development, neuronal migration disorders) not detectable on ultrasound.

This condition is associated with chromosomal / genetic abnormality. To ascertain the etiology, we have advised direct testing – Amniocentesis – QFPCR / CNGenome / WES / DNA store. QF – PCR reports will be available 1 week and CNGenome / WES will be available in 4 weeks time. Considering the advanced gestational age at testing the results may not have a bearing on



pregnancy decision making. Alternatively the above test need to be done postnatally after evaluation by a clinical geneticist.

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Fetuses with Agenesis corpus callosum even, apparently isolated, have an increased risk of developmental difficulties compared to general population – speech language delay learning difficulties cognitive dysfunction, behavioral difficulties, social communication problem, epilepsy, intellectual disability. The degree of impairment cannot be reliably predicted before birth. The presence of additional cerebral abnormalities or genetic abnormality increase the risk significantly.

9. On 06.10.2026, the petitioner had approached Sri Ramachandra Medical Centre Radiology & Imaging Sciences for Fetal MRI, which had been advised in the report dated 05.10.2026. The findings of the MRI was as follows:

“A single live intrauterine gestation is seen in longitudinal lie with cephalic presentation. The placenta Is posterior. There is no previa. The cervix appears closed. Amniotic fluid volume is normal. A three-vessel cord Is seen.

The sulcation pattern is appropriate for the gestation. Subarachnoid space is appropriate for gestational age. The lamination pattern is well maintained in bilateral cerebral



hemispheres.

Cavum septum pellucidum and corpus callosum are not visualised. Colpocephaly noted bilateral lateral ventricles are dilated (right = 16mm; left = 15mm).

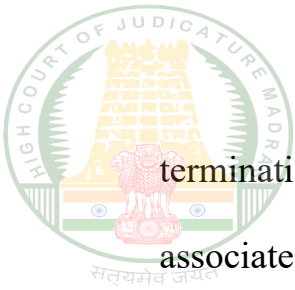
Cisterna magna measures 13 mm”

10. Corpus callosum agenesis in simple words is described as the following condition:

“The bridge of nerve fibers that lets the left and right sides of the brain talk to each other does not form correctly during early fetal development (typically between 8 to 12 weeks of pregnancy). Instead of crossing the midline, these fibers form separate vertical tracts called Probst bundles.

Ventriculomegaly is a condition where the lateral ventricles enlarge.”

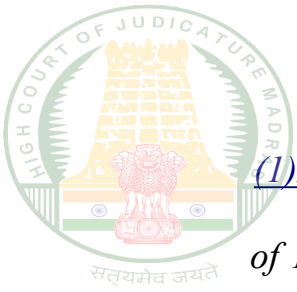
11. Since the reports clearly indicated that the unborn would be born with abnormalities, the petitioner and her husband had taken a heart-rending decision to terminate the pregnancy medically on 13.10.2026. Therefore, the petitioner had made a representation to the 1st respondent with a copy to the respondents 2 and 3, wherein, she submitted that only after September 2026, she had come to learn about the abnormality of the fetus. Therefore, she requested for



termination of pregnancy. The condition with which the fetus has been associated will result in an increased risk of developmental difficulties, including speech and language delays, learning difficulties, cognitive dysfunction, behavioral difficulties, lack of communication skills, epilepsy, and intellectual disability. The petitioner has clearly expressed that her desire was not to complete her period of pregnancy as a child with abnormalities would be subject to ridicule in the society. The petitioner was referred to the medical board which has not approved the request for termination on the ground that the neurological abnormalities were not lethal. Further, they had stated that in the absence of genetic testing isolated corpus callosal agenesis carries variable prognosis and it is non lethal. A genetic test would not serve the purpose as the genetic test would only trace the genetic history of the fetus in question.

12. The second report dated 05.10.2026 shows the abnormalities and the Fetal MRI confirms the same. The termination of the pregnancy is governed by the Medical Termination of Pregnancy Act, 1971, herein after called the MTP Act and the Medical Termination of Pregnancy Rules, 2003, herein after called the MTP Rules. Section 3 of the MTP Act deals with the conditions that are required to be satisfied for terminating pregnancy and the same would read as follows:

“When pregnancies may be terminated by registered medical practitioners.-



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

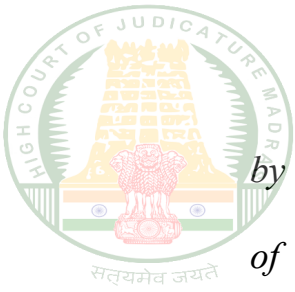
(a)where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(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



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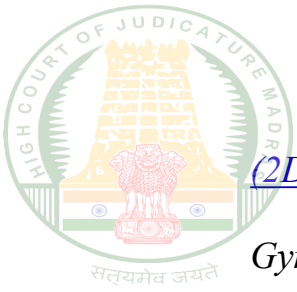
by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

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.



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(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."

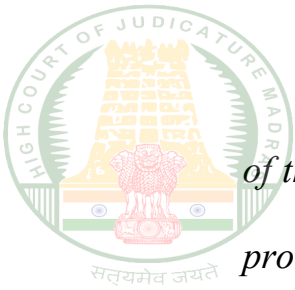
(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(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."

13. Rule 3 A of the MTP Rules would read as follows:

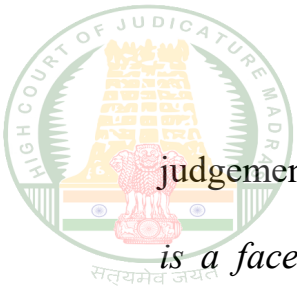
"3A. Powers and functions of Medical Board.--For the purposes of section 3,-- (a) the powers of the Medical Board shall be the following, namely:- (i) to allow or deny termination of pregnancy beyond twenty-four weeks of gestation period under sub-section (2B)



of the said section only after due consideration and ensuring that the procedure would be safe for the woman at that gestation age and whether the foetal malformation has substantial risk of it being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped"

14. A reading of the MTP Act and MTP Rules would indicate that pregnancy of the woman can be terminated only by a registered medical practitioner. If the pregnancy is over 20 weeks but less than 24 weeks, it shall be terminated subject to the opinion of the two registered medical practitioners as per Section 3 (2) read with Rule 3 B. If the pregnancy length is beyond 24 weeks and where the termination is required to save the life of the pregnant woman then opinion of one registered medical practitioner in terms of Section 5 would suffice. In case, the period is beyond 24 weeks and it is found that there are substantial foetal abnormalities, then pregnancy can be terminated with the approval of the medical board as per Section 3 (2B) read with Rule 3 A (a) (i). In the instant case, the pregnancy has crossed 24 weeks and the Board has not granted its approval.

15. In *Suchita Srivastava V. Chandigarh Admn. – 2009 (9) SCC 1*, a three judges Bench of the Hon'ble Supreme Court has held that the right to make reproductive choices rests entirely with the woman. In the aforesaid



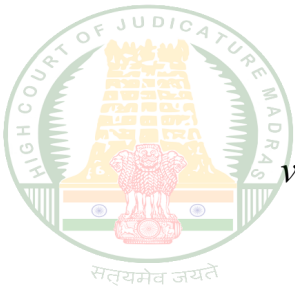
judgement, the judges have opined that *“the right to make reproductive choices is a facet of Article 21 of the Constitution and the consent of the pregnant person in matters of reproductive choices and abortion is paramount”*.

16. The Hon'ble Supreme Court has also dealt with the termination of pregnancy beyond the statutory period prescribed for terminating pregnancy in ***A Vs. State of Maharashtra – 2024 (6) SCC 327***. The learned Judges have after discussing the MTP Act expressed as follows:

“32. This highlights the need for giving primacy to the fundamental rights to reproductive autonomy, dignity and privacy of the pregnant person by the Medical Board and the courts. The delays caused by a change in the opinion of the Medical Board or the procedures of the court must not frustrate the fundamental rights of pregnant people. We therefore hold that the Medical Board evaluating a pregnant person with a gestational age above twenty-four weeks must opine on the physical and mental health of the person by furnishing full details to the court”

17. The Delhi High Court in the case of ***X Vs. GNCTD and another reported in 2022 SCC Online Del 4274***, has discussed the substantial foetal abnormalities by drawing definitions of various statutes as follows:

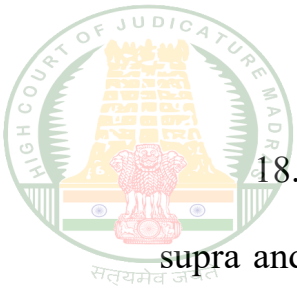
27. [The MTP Act, 1971](#) does not define as to what constitutes "substantial foetal abnormalities" and thus the Court is required to take the assistance of external material for interpreting the said expression. The definitions of the following expressions in



various statutes across jurisdictions are set out below:

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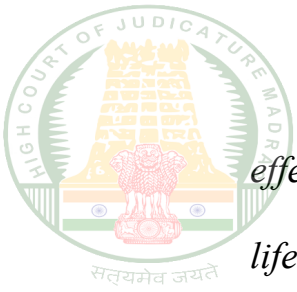
S.No.	Country / State Statute	Terminology	Definition
1	Abortion Act, 1967 (United Kingdom)	Physical or mental abnormalities as to be seriously handicapped	1(1)(d) That there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped
2	Northern Ireland, The Abortion Regulations, 2020 Grounds Termination : Cases with no gestational limit or severe fetal impairment or fatal fetal abnormality	7.(1) A registered medical professional may terminate a pregnancy where (b) if the child were born it would suffer from such physical or mental impairment as to be seriously disabled. there is a substantial risk that the condition of the fetus is such that -	(a) the death of the fetus is likely before or shortly after birth or (b) if the child were born it would suffer from such physical or mental impairment as to be seriously disabled.
3	USA / Florida, Title XXIX Public Health, Chapter 390 Termination of Pregnancies	Fatal abnormality	fetal Means a terminal condition that, in reasonable medical judgment, regardless of the provision of life saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter.



18. The learned judge had also referred to the case of ***Suchita Srivastava*** *supra* and held that from the judicial decision it was apparent that courts have permitted termination of pregnancy even at the advanced stage i.e., ninth month if substantial foetal abnormalities are detected in the foetus.

19. The Hon'ble Supreme Court in the case of ***A Vs. State of Maharashtra and others in Civil Appeal No.827 of 2026***, had held that where the mother did not want to bear the child her interest have to be taken note of and her reproductive autonomy must be given sufficient emphasis and the court cannot compel to complete her pregnancy. The Court had relied upon the earlier judgement of the Hon'ble Supreme Court in the case of ***X Vs. Health & Family Welfare Department - 2022 SCC Online SC 1321***, wherein it was observed as follows:

“The right to reproductive autonomy is closely linked with the right to bodily autonomy. As the term itself suggests, bodily autonomy is the right to take decisions about one’s body. The consequences of an unwanted pregnancy on a woman’s body as well as her mind cannot be understated. The foetus relies on the pregnant woman’s body for sustenance and nourishment until it is born. The biological process of pregnancy transforms the woman’s body to permit this. The woman may experience swelling, body ache, contractions, morning sickness, and restricted mobility, to name a few of a host of side

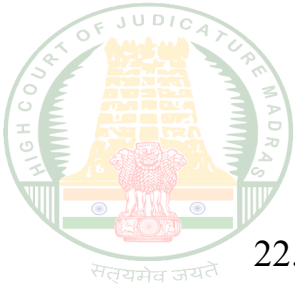


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effects. Further, complications may arise which pose a risk to the life of the woman. A mere description of the side effects of a pregnancy cannot possibly do justice to the visceral image of forcing a woman to continue with an unwanted pregnancy. Therefore, the decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.

20. In the instant case, the scan reports clearly show substantial fetal abnormalities. The mother has the right to take a decision as to whether she would like to bring such a child into the world, particularly when the child is not going to lead a normal life. Therefore, this Court has to bow down to the decision of the petitioner / mother who has taken a painful and extreme step by taking note of the considerable risk involved in this child's chance of leading a dignified and self-sustained life.

21. It is the parents who would have to watch, day in and day out, the suffering that such a child would have to undergo. The parents have taken this decision to ensure that the child is not brought into this world to lead a life of indignity. Further, the unborn child also has the right to live a life of dignity and not be a subject of ridicule. This Court also has to consider the life of this child after the lifetime of the parents.



22. Therefore, in the light of the above judicial pronouncements and taking note of the scan reports which clearly shows the possibility of the child being born with abnormalities, the impugned order of the 3rd respondent cannot be sustained and is accordingly quashed and the respondents are directed to terminate the medical pregnancy of the petitioner as per medical records and the termination shall be done by the registered medical practitioner, forthwith.

23. With the above observation and direction, this writ petition is allowed. No costs.

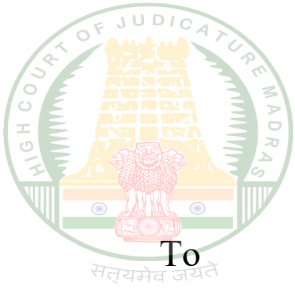
15-10-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

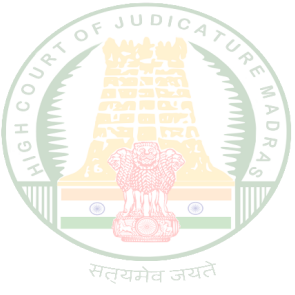
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To

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Health and Family Welfare Department, Government of Tamil Nadu,
Namakkal Kavignar Maaligai,
Fort St.George, Secretariat,
Chennai
2. The Registrar
Tamil Nadu Medical Council,
No. 959 and 960, Poonamallee High Road,
Purasaiwakkam,
Chennai 84
3. The Chairman
Institute of Obstetrics and Gynaecology and Government Hospital for
Women and Children,
No.2, Pantheon Road,
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