

ITEM NO.1

COURT NO.5



SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 33790/2023

(Arising out of impugned final judgment and order dated 17.08.2023 in R/SCA No.10206 of 2023 passed by the Hon'ble High Court of Gujarat at Ahmedabad)

XYZ

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

Date : 19-08-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Shashank Singh, Adv.  
Ms. Yogyata Jhunjhunwala, Adv.  
Mr. Akash Alex, Adv.  
Mr. Sankalp Sharma, Adv.  
Mr. Vishal Arun Mishra, AOR  
Ms. Harshita Nigam, Adv.  
Mr. Saurabh Sharma, Adv.

For Respondent(s) Mrs. Swati Ghildiyal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We have heard learned counsel Mr. Shashank Singh for the petitioner.

Issue notice to the respondents.

*Dasti*, in addition, is permitted.

Mrs. Swati Ghildiyal, learned counsel who is present virtually accepts notice for all the respondents.

Learned counsel for the petitioner submitted that the Writ

Petition was filed on 07.08.2023 and the matter was taken up before the High Court on 08.08.2023 and a direction was issued for constitution of a Medical Board to ascertain the status of the pregnancy as well as the health status of the petitioner. It is stated that on 11.08.2023 the medical report was submitted by the Medical Superintendent Dr. Kiran C. Patel, Medical College and Research Institute (Bharuch Civil Hospital). On 11.08.2023, the same was taken on record by the High Court. Strangely, the High Court ordered listing of the case twelve days thereafter i.e. on 23.08.2023, losing sight of the fact that every day's delay was crucial and of great significance having regard to the facts and circumstances of the case.

We note that in the instant case, the petitioner has sought for termination of her pregnancy and when she had approached the High Court, she was already 26 weeks' pregnant. Therefore, we find that valuable time has been lost between 11.08.2023 when the medical report was placed before the High Court and the order stating that the matter would stand over to 23.08.2023.

Be that as it may, learned counsel for the petitioner has now brought to our notice that in fact, the case status on 17.08.2023 shows that the petition has been rejected on the day when the case was listed. However, there were no reasons dictated in the Court. Further, it is submitted that the impugned order dated 17.08.2023 is yet to be uploaded.

In the circumstances, we direct learned Secretary General of this Court to enquire from the learned Registrar General of the High Court of Gujarat and ascertain whether, the impugned order has

been uploaded or not, if the petition has been disposed of by the High Court on 17.08.2023 during the course of the day.

Learned counsel for the petitioner further submitted that, as on today, the petitioner is pregnant for 27 weeks and two days and, shortly, would be approaching 28<sup>th</sup> week of pregnancy. Since valuable time has been already lost during the pendency of the matter before the High Court, a fresh report may be sought from the Medical Board at Bharuch.

In the circumstances, we direct the petitioner herein to appear before the KMCRI Hospital, Bharuch today for being examined once again and the latest Medical Report shall be submitted to this Court by tomorrow evening i.e. 20.08.2023 by 6.00 P.M. by electronic mode. The same shall be put up before this Court by Monday i.e. 21.08.2023 along with a copy of the impugned order, if available.

List the matter on 21.08.2023.

The matter shall be taken as the first item on Board.

In the meanwhile, learned counsel for the respondent-State to seek necessary instructions in the matter.

A copy of this order shall be made available to the learned counsel for the petitioner and learned counsel for the respondent-State during the course of the day by the Registry and a copy shall also be sent to Superintendent, KMCRI Hospital for taking the necessary steps.

(RADHA SHARMA)  
COURT MASTER (SH)

(MALEKAR NAGARAJ)  
COURT MASTER (NSH)