

2021 amendment to MTP Act of enormous significance: Delhi High Court allows termination of pregnancy beyond 24-weeks.

The Delhi High Court has allowed the termination of pregnancy beyond the 24 weeks period on account of substantial foetal abnormalities.

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[BALLB]

[Date: 10.04.2021]

The Delhi High Court recently took into account the *Medical Termination of Pregnancy (Amendment) Act, 2021* to allow the termination of pregnancy beyond the 24 weeks period on account of substantial foetal abnormalities.

The observation was made by a Single Bench of **Justice Prathiba M. Singh** while considering the case of one Mahima Yadav, seeking permission to terminate her 25 weeks old foetus. She also said that the amendments introduced in 2021 were of enormous significance, observing that under the new provision, the length of pregnancy of 20 weeks or 24 weeks would not apply in case of substantial foetal abnormalities.

The Petitioner's counsel, Advocate Sneha Mukherjee, referred to the report of the Medical Board as per which termination of the pregnancy in this case would involve some risk to the Petitioner, but the said risk is within the permissible limits. The report also stated that the foetus has "warfarin embryopathy" which has a "guarded prognosis" in terms of immediate and long-term outcomes.

All India Institute of Medical Sciences (AIIMS) also stated that there was no doubt that the foetus was suffering from various abnormalities, in view of which, the Medical Board had recommended the termination of pregnancy to be carried out.

In this backdrop, Justice Singh perused the provisions of the newly amended MTP Act.

Section 3(2B) of the Act provides that: 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.

"The above amendments introduced in 2021 are of enormous significance as they have relaxed the conditions under which pregnancy can be terminated. In fact, there are several decisions wherein termination has been permitted on a case-by-case basis even beyond the 24-week period," the Bench observed.

There was a case that was referred i.e., **Sharmishtha Chakraborty & Anr. v. Union of India Secretary & Ors.**, whereby the Supreme Court had deliberated on whether a medical termination of pregnancy ought to be allowed in the 25th week of pregnancy.

As per the medical report produced before the Court in that case, the foetus was said to have a complex cardiac anomaly and if born alive, would require multiple corrective surgeries. The Court allowed the medical termination of the pregnancy, considering that the medical report placed before the court, revealed that the mother would have suffered mental injury if the pregnancy was to be continued and there would be multiple problems if the child was born alive.

Also, in **Priyanka Shukla v. Union of India & Ors.**, the Delhi High Court opined that the right to terminate pregnancy cannot be denied merely because the gestation has continued beyond 20 weeks.

Considering the above-mentioned status of the foetus, this Court holds that the conditions described clearly constitute 'substantial foetal abnormalities which could have an impact on the physical condition of the foetus even if the entire pregnancy is allowed to mature. This would have a deleterious impact on the mother as well. Since the Amendment Act, 2021 has already been notified and in view of the settled legal

position in the various judgments which have been set out herein above, this Court is of the opinion that the termination of pregnancy ought to be permitted even beyond the 24 weeks period."

[CASE NAME: **Mahima Yadav v. GNCTD & Ors.**]