

**“CASE COMMENT ON X V, STATE OF MAHARASHTRA¹”
WRIT PETITION (L) NO. 4521 OF 2025**

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Introduction

This case serves as the central focus of our study and provides a compelling lens through which to examine the intersection of medical ethics, reproductive rights, and judicial intervention in late-term abortion cases in India. At the heart of the matter is a 26-year-old woman in Mumbai who, at eight months pregnant, discovered that her unborn child suffered from macrocephaly and severe neurological abnormalities.

The unanimous recommendation from the JJ Hospital medical board in favor of termination laid the groundwork for the legal plea, citing serious potential conditions such as epilepsy, mental retardation, and impaired motor and visual functions. What makes this case particularly significant is the court's reliance on the Central Government's August 2018 guidelines and the Maharashtra government's policy, ultimately affirming the woman's autonomy, dignity, and right to reproductive decision-making.

Through this case, we aim to analyze how Indian courts address the complex interplay between legal provisions, medical urgency, and fundamental reproductive rights in situations where pregnancy exceeds the 24-week limit. This analysis will also include a comparative study of previously adjudicated cases involving termination beyond 24 weeks, measured against the present case, to understand evolving judicial approaches and the consistency of legal reasoning in such sensitive matters.

Background of the Case

The current case is that of a 26-year-old woman who resides in Mumbai and was eight months pregnant when she appeared before the Bombay High Court seeking leave to terminate her pregnancy. The pregnancy had far surpassed the 20-week limit for abortion as prescribed by Indian law. But this was not due to personal desire or convenience but due to compelling medical and ethical reasons, which comprised the essence of the case.

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The woman, when pregnant, had found out after the 20th week that the baby was diagnosed with macrocephaly an abnormal medical condition in which the head of the fetus is much larger than normal. Macrocephaly is often accompanied by a sequence of serious neurological complications, and in this case, the unborn baby was found to have critical brain-related abnormalities. Further medical procedures confirmed that the unborn child would likely survive through a range of incurable and debilitating diseases like epilepsy, mental retardation, faulty motor skills, and blindness. These findings caused severe concern over the quality of life that the child would have if pregnancy were to be completed.

The woman consulted medical professionals from JJ Hospital, a renowned government hospital in Mumbai. The case was thoroughly examined by a medical board convened at the hospital, and after careful observation and deliberation, all members of the board unanimously recommended that an abortion would be the medically indicated option. The board explained that the health of the fetus was permanent and would result in a life of intense physical and mental suffering. It stated further that it was not only giving emotional and psychological pain to the mother but that it also came with a great risk to the health.²

Based on this advice, the woman went to court, claiming her constitutional and human rights. The basis of her plea was on the grounds that her body control, her sanity, and her reproductive autonomy were all threatened. She also relied on the August 2018 Central Government guidelines under which pregnancy after 20 weeks could be terminated if there were exceptional circumstances, based on a proper medical evaluation. Pregnancies extending beyond 24 weeks would also legally be terminated, subject to permission from the court and medical procedures to ensure the fetus would not be born alive. In such instances, ultrasound-guided procedures are utilized to break the fetal heartbeat before the abortion is performed a move meant to promote ethical compliance and avoid legal repercussions.³

The issue was argued by a bench of Bombay High Court Justices RevathiMohiteDere and NeelaGokale. The bench listened to all the facts of the case, including the medical board's opinion, the physical and psychological health of the woman, the prognosis of the health of the fetus, and the applicable provisions of law. They ruled that the woman had valid reasons to opt for a termination, and denying her this would be unjust and possibly traumatic. They observed that central government policy, as emulated by the Maharashtra state, widely supported women's rights to have well-educated choices about their pregnancy if guided by competent medical practitioners.

In their ruling, the justices emphasized reproductive rights and autonomy of the body as Constitutional rights in India. They maintained that the right to choose essentially with regard to one's own body and reproductive life is a cornerstone of personal liberty and dignity. The court addressed not only the medical and legal frameworks but also broader ethical issues, holding that forcing a woman to carry on with an unviable fetus would be a violation of her dignity and mental well-being.

Also, the woman's lawyer, Minaj Kaka, argued persuasively that the law must be

² Rosy Sequeira, "Fetal anomaly detected late, Bombay HC allows 26-year-old to end pregnancy at 35 weeks" *Times of India*.

³ Ministry: Health and Family Welfare, "The Medical Termination of Pregnancy (Amendment) Bill, 2020" (2020).

interpreted in a humane and compassionate manner, especially where the child, if born, would be condemned to live in agony and the mother to suffer irreparable harm. He emphasized the role of the court in balancing the laws alongside the lived realities of the people they claim to protect.

This case developed at the intersection of medicine, law, ethics, and human rights. It shows the evolving comprehension of abortion legislation in India, where the right to terminate a pregnancy particularly in the case of fetal abnormality is increasingly understood to be not simply a medical issue, but a constitutional one. The background here is not merely a courtroom battle, but a very human struggle between a young woman's adamant appeal for dignity, independence, and justice against overwhelming adversities.

Lastly, the Bombay High Court decision allowing the abortion at 32 weeks of gestation is a landmark decision. It emphasizes the importance of judicial systems being sensitive and responsive to advances in medical science and changes in social mores. The case is a demonstration of how courts can and ought to be protectors of individual liberty, particularly when the existing legal framework does not effectively deal with the subtleties of complex medical and ethical issues.⁴

1. Overall Implications

The Bombay High Court judgment in this case has significant legal, ethical, medical, and social implications. Underlying the decision is the assertion of women's reproductive rights, control over one's own body, and the right to dignity, especially where there are serious fetal anomalies. The case shows how the judiciary still plays an important role in interpreting existing law to safeguard the individual's freedoms against medical realities that are hard to bargain.

One of the greatest consequences is the consolidation of the progressive intent in legislating the Medical Termination of Pregnancy (MTP) Act, 1971, particularly after amendment in 2021. The ruling reflects the evolving understanding of the law on managing pregnancies across the old 20-week divide, precisely when the unborn fetus has life-threatening development malformations. It underscores the necessity of synchronizing legal interpretations with advances in medical diagnostics and patient care. The Court's recognition of macrocephaly and associated neurological complications as valid reasons for late-term abortion brings clarity and precedent to analogous future cases.⁵

Furthermore, the ruling sets an important precedent in the interpretation of reproductive rights not as medical decisions but as fundamental rights protected by the Constitution. Through the emphasis on the woman's right to decide over her own life and body, the court put questions of autonomy, mental health, and informed choice at the forefront. This turns the frame from a patriarchal model of reproductive health care back towards the autonomy and lived experience of women.

Medically, the case highlights the significance of specialist panels and the necessity for revised clinical guidelines to guide judicial and ethical decision-making. It highlights the importance of cooperation between medical boards and courts in safeguarding the rights and

⁴ PTI, "Right to bodily autonomy: Bombay High Court allows woman to terminate pregnancy with foetal anomalies" (31 March 2025).

⁵ Ishwar C Verma Veronica Arora, "The Medical Termination of Pregnancy (Amendment) Act, 2021: A step towards liberation," 7 *ijme Indian Journal of Medical Ethics*.

well-being of patients. Legally, it sets the precedent that courts are able to grant relief even where pregnancies are more than 24 weeks, subject to proof of just cause and medical necessity.

Societally, the case may assist in reducing stigma around abortion, especially where it is medically required, and fostering a kinder understanding of women who must make such heart-wrenching choices. It also reminds legislators and healthcare providers that there needs to be more access to diagnostics, counseling, and legal recourse in such cases.

This case broadens India's legal and ethical scope of reproductive rights, affirming that compassion, medical realities, and respect for individual choice must guide abortion-related jurisprudence in the future.

2. What are the principles court applied in this case

In the case of the Bombay High Court which considered several underlying basic legal and moral principles while considering the permission of abortion for a fetus beyond the 24th week of gestation outside of the provision by law in the Medical Termination of Pregnancy (MTP) Act. It was ruled after considering the consolidation of statutory construction, medical reality, constitutional guarantees, and regulation by government.

The main principle applied was the woman's right of bodily autonomy and reproductive freedom. The court recognized that the decision of whether or not to continue a pregnancy is largely in the hands of the woman, especially when the fetus is diagnosed with severe congenital disabilities. Such a right is grounded firmly on the constitutional principles of personal freedom and privacy under Article 21 of the Indian Constitution. The judgment highlighted that forcing a woman to carry on with a severely disabled fetus to term would infringe upon her dignity, mental health, and control over her body.⁶

The other important principle was the application of medical expertise and due process. The court considered the advice of a duly constituted medical board at JJ Hospital, which voted unanimously for termination on a diagnosis of macrocephaly and severe neurological abnormalities. The court held that judicial intervention is warranted where the competent medical authority has concluded that if the pregnancy is carried to term, physical and psychological damage is inflicted on the mother or where the fetus is sure not to have the chance of living a healthy life.

Further, the court read the 2018 Central Government guidelines and policies by the Maharashtra Government permitting abortions beyond the 20-week deadline in exceptional circumstances. These guidelines are directed towards a liberal and humane approach, especially in the case of extreme fetal malformations detected towards the later part of the pregnancy. The court was firm that the guidelines were framed with the purpose of promoting women's rights to access safe abortion centers keeping in view progress in technology and diagnostic equipment.

Values of justice, non-maleficence, and compassion were at the core of the ruling, too. The court appreciated the fact that letting the pregnancy take its course would cause unjust harm to the unborn child as well as to the mother. The judge was persuaded by the principle of ensuring the law serves the purpose of humankind, as opposed to upholding an unreasonable, absolute, one-size-fits-all kind of rule.

Finally, the judgment asserted the constitutional ethos of dignity, justice, and the right to

⁶ Dipika Jain, "Supreme Court of India judgement on abortion as a fundamental right: breaking new ground," 31 *National Libraray of medicine* (2023).

health care and reaffirmed these principles. The judgment endorsed the evolving legal landscape of reproductive rights in India and asserted the leadership of the judiciary in protecting weaker sections, especially women facing problematic health-related options.

In short, the verdict is a modern, empathetic, and human rights-friendly measure of medical and reproductive law.

3. Finding and Impact of the Case

In this landmark case on the Medical Termination of Pregnancy (MTP) Act, the Bombay High Court permitted abortion of a fetus beyond 20 weeks of gestation on the grounds of serious fetal malformations. The court's verdict reaffirmed the primacy of a woman's reproductive choice and recognized her right to make informed decisions about her own body and health.

The evidence concluded that the 26-year-old pregnant woman's fetus was diagnosed with macrocephaly and other severe neurological disabilities like epilepsy, mental retardation, potential motor and visual disabilities. On due consideration, the medical board at JJ Hospital voted unanimously for termination. The court accepted the decision, taking into account the extreme physical, psychological, and emotional strain a birth would cause to the mother.⁷

Key findings include:

- a. The fetus had a number of, irreversible, and life-threatening abnormalities.
 - b. It would be extremely dangerous for the mental and emotional well-being of the mother to continue the pregnancy.
 - c. The medical board's evaluation provided expert, unbiased opinion to support the decision.
- The court invoked the government's August 2018 guidelines and aligned its order with the central and Maharashtra government policies, which allow MTP in some post-20-week cases. As per these guidelines, abortion beyond 24 weeks entails judicial approval which was rightfully granted in this case.

The judgment had far-reaching implications, setting important legal and ethical precedents:

- a. It reaffirmed women's constitutional rights to dignity, bodily autonomy, and reproductive freedom.
- b. It manifested court sensitivity to maternal health and complex medical realities.
- c. It clarified the legal interpretation of abortion laws in light of emergent medical technologies and evolving social norms.
- d. It reaffirmed the importance of institutional medical boards in making evidence-based legal decisions.

Broader implications of the judgment can be seen in the manner in which courts now increasingly recognize the intricate interaction between reproductive rights and medical science. It has also led to increased public sensitivity regarding the rights of pregnant women, particularly where fetal abnormalities or risks to maternal health are concerned.

The ruling of the court validated the woman's right to a legal, safe, and dignified abortion. The importance of the case lies in the balanced approach to weighing legal system, medical ethics, and human rights ending up upholding the health and dignity of the woman and the intent of the MTP Act.

4. Core principles applied in this case(like dignity, justice etc)

⁷ PTI, "Right to bodily autonomy: HC allows woman to terminate pregnancy with foetal anomalies."(31. March 2025).

The core principles applied in this case can be elaborated as follows, along with a few points highlighted for clarity. The Bombay High Court's decision in the matter of permitting abortion beyond 24 weeks of pregnancy reflects a sensitive yet progressive judicial approach grounded in fundamental constitutional principles:

Core Principles Applied in this Case are

Right to Dignity

- a. The woman's dignity was upheld by recognizing her autonomy and ability to make decisions about her own body.
- b. By permitting the medical termination of pregnancy (MTP), the court affirmed that forcing a woman to continue with a pregnancy against her will, particularly under severe medical stress, is a violation of her personal dignity.

Bodily Autonomy

- a. The principle of bodily autonomy, which grants an individual complete control over their own body, was central to the decision.
- b. The court acknowledged that compelling a woman to carry a severely abnormal fetus to term would be a gross infringement of her physical and emotional rights.

Right to Reproductive Choice

The bench invoked the woman's right to reproductive choice, as protected under Article 21 of the Indian Constitution (Right to Life and Personal Liberty).

Reproductive autonomy includes the right to decide whether to continue or terminate a pregnancy, particularly when there are severe fetal abnormalities.

Principle of Justice

The decision reflects substantive justice considering not only the law but also fairness in light of the specific circumstances.

The court ensured justice by balancing legal stipulations with medical realities and the emotional and physical health of the woman.

Compassion and Medical Ethics

The court's acceptance of the JJ Hospital medical board's unanimous recommendation aligns with ethical medical practice and humane treatment.

Medical ethics dictated that continuing the pregnancy could cause extreme distress to both the mother and the potential child, who would likely suffer lifelong impairments.

Right to Health

Continuing a pregnancy with a fetus diagnosed with macrocephaly and other serious neurological issues posed significant mental and physical health risks to the mother.

The court gave due consideration to the woman's overall health, thereby aligning the judgment with the constitutional guarantee of the right to health.

Adherence to Evolving Legal Norms

The bench referred to the August 2018 guidelines of the Central Government, showcasing the legal system's readiness to evolve and adapt to modern realities.

The court also considered the Maharashtra government's policy framework while arriving at the decision.

Rule of Law

The decision maintained the sanctity of the law by ensuring that the procedure for abortion beyond 24 weeks was followed i.e., court permission was obtained based on expert medical opinion.

Humanitarian Considerations

The judgment reflects a humane approach, taking into account not just legal boundaries but the psychological trauma and potential life of hardship for both mother and child.

Compassion was shown in recognizing that the child, if born, would likely suffer from mental retardation, epilepsy, and other irreversible conditions.

Gender Justice

By empowering the woman to make decisions about her pregnancy, the court reinforced the principle of gender justice.

It sends a message that women's voices and choices matter in the realm of healthcare and reproductive decisions.

Judicial Activism

The court went beyond a mere technical interpretation of the law and delivered a verdict that emphasized human rights and constitutional values.

Best Interests Principle

The court applied the principle of what would be in the best interest of both the unborn child and the mother, ultimately concluding that abortion was the most viable, ethical, and legally sound solution.

The judgment was a balanced application of law, ethics, and constitutional morality. It showcased how legal institutions can meaningfully interpret statutes in a way that prioritizes dignity, justice, autonomy, and human well-being.⁸

Previous criteria of abortion in India

Before the progressive ruling in the present case, the criteria governing the termination of pregnancy in India were primarily defined by the Medical Termination of Pregnancy (MTP) Act, 1971. Initially, this law permitted abortion only up to 20 weeks of gestation and was framed to safeguard the life and health of the pregnant woman while maintaining a cautious stance on the termination of pregnancies.⁹

Under the original provisions, abortion beyond 20 weeks was allowed only if it was necessary to save the life of the mother. The law required the opinion of one registered medical practitioner for termination up to 12 weeks, and two practitioners if the pregnancy was between 12 and 20 weeks.

These statutory thresholds imposed rigid gestational limits and left little room for flexibility, even in situations involving severe fetal anomalies or significant risks to the woman's mental health.

Over time, the limitations of this legal framework became apparent, particularly as medical technology advanced and allowed for later detection of fetal abnormalities often beyond the 20-week cutoff.

⁸ Faith Wanjiku and Bonface Nyamweya, "The Supreme Court of India holds that the right to dignity entails recognising the competence and authority of every woman to take reproductive decisions, including the decision to terminate an unwanted pregnancy."

⁹ Sneha Mahawar., "Medical Termination of Pregnancy Act, 1971." (9 July 2022).

Several cases came before various High Courts and the Supreme Court, where women sought permission to terminate pregnancies beyond the statutory limit due to late diagnoses of serious congenital defects.

These cases highlighted a serious gap in the law: it did not accommodate the evolving medical realities or adequately protect the reproductive rights and mental health of women facing tragic fetal diagnoses.

To address these issues, the Medical Termination of Pregnancy (Amendment) Act, 2021, was enacted. This amendment extended the upper limit for abortion from 20 to 24 weeks for certain categories of women, such as survivors of rape, incest victims, minors, and other vulnerable women (as defined by the government).

However, even this extension did not universally apply to all women, nor did it allow for termination beyond 24 weeks except under exceptional circumstances involving substantial fetal abnormalities.

In such rare and critical situations, the law required that a Medical Board of specialists examine the case and render a professional opinion. Based on this, judicial approval could be sought to authorize the termination.

Despite the amendment, the law still maintained a time-bound framework, and pregnancies exceeding 24 weeks remained legally challenging to terminate unless approved by a court.

These criteria, while progressive compared to the original 1971 Act, continued to prioritize gestational age over medical reality and reproductive autonomy. As a result, women carrying fetuses with late-detected, non-viable conditions had to navigate a complex, often delayed judicial process to exercise their right to terminate the pregnancy.

Thus, the previous criteria were shaped more by regulatory caution than by individual autonomy or technological capability.

They operated under a protective, somewhat paternalistic model of reproductive healthcare, wherein the state retained significant control over a woman's right to make choices about her own body, especially in the later stages of pregnancy.

The present case, by granting permission for termination at 32 weeks, challenges this outdated approach and underscores the need for a more compassionate, medically informed, and rights-oriented interpretation of the law.¹⁰

Supreme Court rejects plea for termination of over 27-week pregnancy, says fetus has fundamental right to live

In a recent case, the Supreme Court of India declined to entertain the plea of a 20-year-old unmarried woman seeking termination of her over 27-week pregnancy. The Court emphasized that the foetus also possesses a fundamental right to life. A bench led by Justice B.R. Gavai, along with Justices S.V.N. Bhatti and Sandeep Mehta, upheld the Delhi High Court's May 3 decision denying permission for the abortion.

The woman's counsel argued that the Medical Termination of Pregnancy (MTP) Act focuses solely on the rights of the mother and that the petitioner was undergoing severe mental

¹⁰ Jugal Kishore Kumari, Sneha, "Medical Termination of Pregnancy (Amendment Bill, 2021)," 46 *Indian Journal of Community Medicine* 367–369 (2021).

trauma while preparing for the NEET exam. However, the bench reiterated that the law could not be bypassed, especially since the pregnancy had crossed the statutory limit of 24 weeks.

The Delhi High Court had earlier reviewed a report by AIIMS, which found no congenital abnormalities in the foetus and no risk to the woman's health, thus ruling out grounds for a legal termination. The court concluded that, with the foetus being viable and healthy, termination at this stage would be both unethical and unlawful. This case underscores the complex balance between reproductive rights and the legal protections extended to unborn children in India.¹¹

Averse to stilling heart of a viable fetus: Supreme Court rejects plea for termination of 26-week pregnancy

In a recent case, the Supreme Court of India rejected a plea by a woman seeking termination of her 26-week pregnancy, citing the absence of any substantial foetal abnormalities or imminent threat to the mother's life as required under the Medical Termination of Pregnancy Act, 1971 (MTP Act).

Despite an AIIMS report diagnosing the petitioner with postpartum psychosis, including suicidal tendencies, the Court held that the conditions did not meet the legal threshold. The three-judge bench, led by Chief Justice D.Y. Chandrachud along with Justices J.B. Pardiwala and Manoj Misra, acknowledged Article 142's power to do complete justice but noted it could not be invoked in every situation. The petitioner's counsel, Advocate Amit Mishra, argued for a broader interpretation of "life" under Section 5 of the MTP Act, akin to Article 21 of the Constitution.

However, the Court rejected this, stressing that such a liberal reading would override Section 3's safeguards. Senior Advocate Colin Gonsalves contended that international law grants no rights to unborn fetuses and highlighted that all abortion procedures involve stopping the foetal heart. Nonetheless, the Court expressed concern over terminating a viable foetus and refused to authorise such action. Ultimately, the Court directed AIIMS to conduct a full-term delivery and instructed the Union to assist if the petitioner chose adoption. The case reflects the Court's adherence to statutory limits and its cautious approach in balancing maternal mental health, foetal viability, and legal interpretations under Indian law.¹²

No Abnormalities Supreme Court Rejects Termination of 32-Week Pregnancy

In a deeply sensitive matter, the Supreme Court on January 24, 2024, upheld the Delhi High Court's decision recalling its earlier order that allowed a 26-year-old widow to terminate her 29-week-old foetus. The woman, who lost her husband in October 2023, sought medical termination citing severe mental trauma. Initially, on January 4, the Delhi High Court had permitted termination, recognizing her right to reproductive choice and noting her mental distress, including suicidal tendencies. However, following the Centre's plea and the AIIMS

¹¹ The Economic Times, "SC rejects plea for termination of over 27-week pregnancy, says foetus has fundamental right to live.", (15 May 2024). Available at- <https://economictimes.indiatimes.com/news/india/sc-rejects-plea-for-termination-of-over-27-week-pregnancy-says-foetus-has-fundamental-right-to-live/articleshow/110145705.cms>

¹² Gauri Kashyap, "Averse to stilling heart of a viable fetus: Supreme Court rejects plea for termination of 26-week pregnancy.", (16 Oct. 2023). Available at- https://www.scobserver.in/journal/averse-to-stilling-heart-of-a-viable-foetus-supreme-court-rejects-plea-for-termination-of-26-week-pregnancy/?utm_source=chatgpt.com

medical board's findings, the High Court reversed its decision on January 23, stressing the viability of the 32-week fetus and the absence of abnormalities.

The medical board held that the pregnancy posed no significant risk to the petitioner and that termination at such an advanced stage would be unethical and unjustified. The Supreme Court concurred, emphasizing the sanctity of life and the importance of the medical opinion. The bench advised the woman to carry the pregnancy to term and, if she wished, give the child up for adoption, assuring that the government would facilitate the process and bear the medical expenses.

This case highlights the delicate balance between reproductive autonomy and the state's duty to protect unborn life. It underscores the limits of the Medical Termination of Pregnancy Act, especially beyond 24 weeks, and affirms that termination at an advanced stage is subject to stringent scrutiny, particularly in the absence of foetal abnormalities or life-threatening risks to the mother.¹³

Malformed baby born to woman whose abortion plea was denied

In a significant ruling on March 27, 2017, the Supreme Court of India denied a 25-year-old Kandivli woman permission to terminate her pregnancy despite the foetus being diagnosed with a serious abnormality. The woman, who was in an advanced stage of gestation, had approached the apex court seeking medical termination after doctors detected that her unborn child was suffering from Arnold Chiari syndrome type -2 a rare and severe congenital condition that causes the brain to be underdeveloped and the spinal cord to be distorted.

The woman, in her first pregnancy, had been consulting doctors at Kandivli Shatabdi Hospital. Following the detection of the anomaly, she was referred to KEM Hospital, Parel, for a comprehensive medical evaluation.

A panel of doctors at KEM confirmed the diagnosis and submitted their report to the court. Despite acknowledging the serious nature of the condition, the Supreme Court refused to grant permission for an abortion, citing the advanced stage of pregnancy, which exceeded the 20-week limit prescribed under the Medical Termination of Pregnancy Act, 1971.

The court's decision reignited debate over India's abortion laws, especially concerning cases involving serious foetal abnormalities. Critics argued that forcing a woman to carry a non-viable or severely impaired foetus to term imposes undue physical and emotional trauma. This case underscored the urgent need to revisit legal provisions surrounding abortion, particularly in situations where medical complications are detected beyond the legal timeframe, and highlighted the tension between medical realities and statutory limits.¹⁴

Comparison of the Present Case with Earlier Cases and Circumstances

The present case, where the Bombay High Court allowed a 26-year-old woman to terminate her 32-week pregnancy due to severe fetal abnormalities, represents a significant shift

¹³ NDTV India News, "No Abnormalities: Supreme Court Rejects Termination Of 32-Week Pregnancy.", (31 Jan. 2024). Available at- https://www.ndtv.com/india-news/no-abnormalities-supreme-court-rejects-termination-of-32-week-pregnancy-4968305?utm_source=chatgpt.com

¹⁴ Jyoti Shelar, "Malformed baby born to woman whose abortion plea was denied" *The Hindu*, (5 July 2017). Available at- <https://www.thehindu.com/news/cities/mumbai/malformed-baby-born-to-woman-whose-abortion-plea-was-denied/article19210843.ece>

in how the judiciary interprets and applies the Medical Termination of Pregnancy (MTP) Act in conjunction with constitutional rights. This case stands as a landmark in the evolution of reproductive rights jurisprudence in India, especially when compared with earlier cases involving similar medical and legal complexities. A comparative analysis reveals how the legal landscape is gradually shifting from a rigid procedural framework to a more compassionate, medically sensitive, and rights-based approach.

Earlier cases were bound by the original MTP Act, 1971, which only permitted abortion up to 20 weeks of gestation unless the woman's life was at risk. This statute was restrictive and failed to consider advances in fetal diagnostics or account for mental health consequences and evolving societal values. In contrast, the present case takes place in the context of the amended MTP Act of 2021, which extended the permissible limit to 24 weeks for certain vulnerable categories and allowed for termination beyond 24 weeks in cases of substantial fetal abnormalities, with approval from a court and based on the advice of a medical board.

This evolution in the law itself reflects a more inclusive understanding of reproductive autonomy. However, the application of these provisions remained inconsistent until judicial interpretation began aligning legal mandates with practical medical realities, as exemplified by the present case.

Comparison of above 24 weeks pregnancy terminated case vs. Present case

The comparison between the earlier rejected case of over 24 weeks pregnancy and the present 32-week termination case reveals significant legal, medical, and judicial differences that justify the contrasting outcomes. While both cases concern late-stage pregnancies and the desire to terminate due to personal or medical distress, the primary distinguishing factor lies in the strength of medical evidence, procedural compliance, and evolving judicial interpretation. In the earlier case, the Supreme Court denied termination of a pregnancy beyond 25 weeks, primarily because the medical report found no congenital abnormalities in the fetus and no threat to the physical health of the woman.

Despite the woman's mental trauma and her being unmarried, the court emphasized the fetus's viability and its fundamental right to life, holding that these circumstances did not meet the threshold for legal termination under the Medical Termination of Pregnancy (MTP) Act. The court stressed that the MTP Act could not be overridden in the absence of compelling medical grounds. It viewed termination at such an advanced stage without fetal abnormalities as both unethical and unlawful, suggesting adoption as a lawful alternative.

In stark contrast, the present case involved a 26-year-old woman who was 32 weeks pregnant with a fetus diagnosed with macrocephaly and multiple irreversible neurological abnormalities, such as probable epilepsy, intellectual disability, and impaired motor function. These severe deformities raised substantial concerns about the fetus's quality of life and survivability. Crucially, the medical board at JJ Hospital unanimously recommended termination, stating that the fetus was non-viable and that continuation posed serious mental and physical risks to the mother. The woman also complied with all procedural requirements under the law, obtaining timely medical evaluation and legal authorization.

The judicial approach in the present case reflected a more compassionate and rights-based perspective. The Bombay High Court, recognizing the medical gravity and the petitioner's right to bodily autonomy, reproductive freedom, and dignity, permitted the termination.

The judges emphasized the constitutional protection of personal liberty under Article 21, which includes the right to make informed decisions about one's body and pregnancy. Their

interpretation aligned with updated 2018 guidelines allowing termination beyond 24 weeks in exceptional cases involving severe fetal abnormalities, especially when backed by expert medical opinion.

What further differentiates the present case is its procedural robustness and alignment with both the spirit and letter of the amended MTP Act, 2021. It addressed all legal criteria, was supported by medical consensus, and was adjudicated with empathy and respect for constitutional values. On the other hand, the rejected case lacked medical substantiation of fetal non-viability and hinged on the court's strict interpretation of statutory limits, showing a more rigid, cautious legal stance.

Overall, the earlier rejection was rooted in the absence of fetal abnormality and legal conservatism, while the approval in the present case was driven by conclusive medical necessity, procedural diligence, and progressive constitutional reasoning. This contrast underlines the case-specific nature of abortion jurisprudence and the importance of aligning legal outcomes with medical realities and human rights.

Why was the above 24 weeks pregnancy case not given in her favor & and 32 weeks pregnancy case given in her favor?

The contrasting outcomes between the Supreme Court's rejection of abortion beyond 24 weeks and the Bombay High Court's approval at 32 weeks underscore the evolving interplay of law, medicine, and constitutional values. In the earlier case, the absence of fetal abnormalities and any serious threat to the mother's physical health led the Court to prioritize fetal viability and a strict reading of the MTP Act. The woman's mental trauma and unmarried status, though relevant, were insufficient grounds without medical urgency. The Court upheld a conservative legal approach, emphasizing the sanctity of life and suggesting adoption as an alternative.

Conversely, the 32-week termination was granted because of compelling medical evidence. The fetus had severe, irreversible neurological defects, confirmed by the JJ Hospital's expert board, which also warned of risks to the mother's mental and physical health. This medical consensus, combined with full legal compliance, shifted judicial reasoning toward a rights-based framework. The Bombay High Court emphasized bodily autonomy, reproductive choice, and human dignity under Article 21. The case aligned with the amended MTP Act, 2021, and its exceptions for late-term abortions due to fetal anomalies.

Thus, the earlier case lacked legal and medical grounds, while the latter demonstrated procedural rigor, medical necessity, and constitutional empathy, marking a progressive judicial shift.

Conclusion

In conclusion, the present case marks a pivotal moment in the evolving landscape of reproductive rights in India. By allowing a 32-week abortion due to severe fetal abnormalities, the Bombay High Court demonstrated a sensitive, rights-based approach that balances legal statutes with medical realities and constitutional values. Unlike previous cases where the Supreme Court denied late-term abortions citing the fetus's right to life and absence of abnormalities, this case was distinct in its procedural integrity and strong medical backing.

The unanimous recommendation of the medical board, highlighting irreversible neurological defects and non-viability of the fetus, played a crucial role in the court's empathetic decision. This ruling reinforces a woman's right to bodily autonomy and informed decision-making, enshrined under Article 21 of the Constitution. It also reflects the judiciary's willingness to interpret the Medical Termination of Pregnancy (Amendment) Act, 2021, and the 2018

guidelines in a progressive manner especially when termination is necessary for preserving the woman's physical and mental health.

By aligning legal interpretation with medical expertise and individual dignity, the case challenges the earlier restrictive norms that prioritized gestational timelines over human realities. This judgment not only sets a precedent for future cases involving advanced-stage pregnancies with serious abnormalities but also emphasizes the need for continuous legal reform in reproductive healthcare. Ultimately, it showcases the importance of a compassionate legal framework that respects both the science of medicine and the fundamental rights of women.