

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

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The Supreme Court on May 15 refused to entertain a plea of a 20-year-old unmarried woman seeking termination of her over 27-week pregnancy, saying the foetus in the womb also has a fundamental right to live. A bench headed by Justice B R Gavai passed the order while hearing the woman's plea challenging the Delhi High Court's May 3 order refusing to allow termination of her pregnancy.

"The child in womb also has a fundamental right to live. What do you say about that?" the bench asked. The woman's counsel said the Medical Termination of Pregnancy (MTP) Act talks about the mother only. The bench said the duration of pregnancy was over seven months now. "What about the right of the child to survive? How do you address that?" the bench asked.

The counsel said the foetus is in the womb and till the child is delivered, it is the right of the mother. "The petitioner at this stage is under severe traumatic condition. She can't come outside also. She is taking classes for NEET exam. She is under highly traumatic condition. She can't face the society at this stage," he said. The lawyer argued that her mental and physical well-being should be considered.

"A perusal of the report [of medical board] shows that there is no congenital abnormality in the foetus nor is there any danger to the mother to carry on with the pregnancy which will mandate termination of the foetus," the high court had said. "Since the foetus is viable and normal, and there is no danger to the petitioner to carry on with the pregnancy, foeticide would neither be ethical nor legally permissible," it had said.

Under the MTP Act, termination of pregnancy of a duration exceeding 24 weeks can be allowed in case of substantial foetal abnormality as diagnosed by a medical board or if an opinion is formed in good faith for the purpose of saving the life of the pregnant woman.

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