BLOGS

Unmarried Woman’s Right to Abortion: Everything You Need to Know for CLAT 2023

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Case Name: X v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr.

Citation: Civil Appeal No 5802 of 2022 (Arising out of SLP (C) No 12612 of 2022)

Bench: Dr. Dhananjaya Y. Chandrachud, J., A S Bopanna, J., J.B. Pardiwala, J

Laws and Rules Involved

- Medical Termination of Pregnancy Act, 1971
- Medical Termination of Pregnancy Rules, 2003

Facts of the Case

The woman seeking abortion was unmarried with a pregnancy of 23 weeks and 5 days. The pregnancy had arisen out of a consensual relationship, but she wanted to terminate it as her partner was not ready to marry her.

The High Court of Delhi made a restrictive interpretation of the Rules of 2003, and denied her relief claiming that unmarried women were not covered under the Rules.

Elements of the Judgment

The main judgment could be studied in the following four parts and contexts:

1. Interpretation of the phrase “injury to mental health” in the Act
2. Interpretation of Rule 3B
3. Right to reproductive autonomy
4. Right to dignity

Important cases in this regard are ***K S Puttaswamy* v. *Union of India*** and ***Suchita Srivastava* v. *Chandigarh Administration***, among others.

Major outcome

- Right to terminate pregnancy medically extends to unmarried women also. Unmarried women are entitled to seek abortion of pregnancy arising out of a consensual relationship. Exclusion of women from this right is unconstitutional.
- The Court held that a purposive interpretation of Rule 3B furthers the constitutional mandate associated with the law. In this regard, the Court took support from the case of Express Newspapers Ltd. v. Union of India, among other cases.

Other Important Observations

The Court reiterated the positive obligations of the State, and the Indian State's obligations under international law as well. Some important observations in that regard are mentioned below.

- An intersectional outlook: "True realization of reproductive autonomy is possible only by addressing problems in the societal contexts within which individuals, particularly women, are situated. It is not only social stigma which prevents women from realizing the right to health but also caste and economic location."
- Extension of rights of the woman: "Implicitly, this right (right to reproductive autonomy) also extends to a right of the pregnant woman to access healthcare facilities to attain the highest standard of sexual and reproductive health. It is meaningless to speak of the latter in the absence of the former."
- The Court also referred to cases of Devika Biswas v. Union of India and Paschim Banga Khet Mazdoor Samiti v. State of West Bengal to invoke the obligations of the State.

Focus Areas for Competitive Exams

After a study of this judgment, aspirants must focus on the aspects of:

-Right to autonomy (reproductive or otherwise),

-Right to dignity and privacy,

-Co-relation of Fundamental Rights and Directive Principles,

-Modes of interpretation (purposive interpretation used here).

To read about the rights of women in India among other things, click here.