



CONSTITUTIONAL LAW

# Reproductive Rights Unshackled: Bombay High Court Affirms MTP Protection For Unmarried Women

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## Introduction

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In a significant reaffirmation of reproductive rights jurisprudence in India, the Bombay High Court, by its judgment dated 29 January 2026 in ABC v. State of Maharashtra & Union of India, has conclusively settled the legal position that unmarried women are entitled to seek medical termination of pregnancy up to 24 weeks under the Medical Termination of Pregnancy Act, 1971 (MTP) as amended in 2021. The Division Bench, comprising Justice Bharati Dangre and Justice Manjusha Deshpande, disposed of the petition by affirming the authoritative pronouncement of the Supreme Court of India, while simultaneously directing wider dissemination of the settled law to all functionaries involved in the implementation of the MTP Act.

## Background and Facts

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The petitioner, a 26-year-old unmarried woman, approached the Bombay High Court in 2022 carrying an unwanted pregnancy of 22 weeks gestation, arising from the failure of a contraceptive device. She apprehended severe social stigma and the absence of familial support and was accordingly desirous of terminating the pregnancy. However, she was confronted with a significant legislative lacuna: Rule 3-B of the Medical Termination of Pregnancy Rules, 2003 introduced pursuant to the 2021 amendment enumerated specific categories of women eligible for termination up to 24 weeks, and conspicuously excluded unmarried women in consensual relationships from its ambit.

The categories prescribed under Rule 3-B extended protection to survivors of sexual assault, minors, women who experienced a change in marital status, women with physical or mental disabilities, cases of foetal malformation, and women in humanitarian emergencies. Notably absent from this enumeration was the category of single or unmarried women whose pregnancies, though consensual in origin, were nonetheless unwanted due to a change in material circumstances a glaring omission that the petitioner challenged as constitutionally impermissible.

## Constitutional Challenge

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The petitioner mounted a two-pronged constitutional challenge. First, she contended that Section 3(2)(b) of the MTP Act, which delegated the identification of eligible categories of women to subordinate rules was ultra vires Articles 14 and 21 of the Constitution of India insofar as those rules excluded unmarried women. Second, and more broadly, she argued that denying a single woman the right to terminate an unwanted pregnancy while permitting certain categories of married women to do so within the same gestational window constituted an invidious and arbitrary classification violating the guarantee of equality before law and equal protection of laws enshrined in Article 14.

The petitioner further invoked Article 21, asserting that her fundamental right to live with dignity, free from inhuman or degrading treatment was directly imperilled by the legislative exclusion. She argued that compelling her to carry an unwanted pregnancy to term would inflict grave physical and psychological harm, undermining her bodily integrity and reproductive autonomy rights long recognised as dimensions of the constitutional guarantee of life and personal liberty.

## Precedent: The Supreme Court's Ruling in X v. Principal Secretary

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During the pendency of the petition, counsel for the Union of India placed before the court the landmark three-Judge Bench decision of the Supreme Court in X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Anr. [(2023) 9 SCC 433], which had addressed the identical question of law under near-identical facts. In that case, an

unmarried woman at 22 weeks of gestation had sought termination on grounds of social stigma and mental health concerns arising from an unwanted consensual pregnancy. The Supreme Court, transferring the matter from the High Court to itself on account of the substantial constitutional questions involved, delivered a definitive ruling on the interpretation of Rule 3-B.

The Supreme Court held that Rule 3-B must receive a purposive interpretation, consistent with the legislative intent underlying the MTP Act. Drawing upon its earlier decision in *Suchita Srivastava & Anr. v. Chandigarh Administration* [(2009) 9 SCC 1] which had recognised a woman's right to make reproductive choices as a dimension of personal liberty under Article 21, the Court held that excluding unmarried or single women from the ambit of Rule 3-B would be discriminatory and violative of Article 14. It was further declared that the rights of reproductive autonomy, dignity, and privacy under Article 21 confer upon an unmarried woman the right to choose whether or not to bear a child, on the same footing as a married woman.

## The Bombay High Court's Analysis and Directions

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The Bombay High Court, upon a careful reading of the Supreme Court's authoritative pronouncement, held that the issue raised in the petition stood conclusively settled. The Court declined to separately adjudicate upon the constitutional validity of Section 3(2)(b) of the MTP Act, given that the Supreme Court had already rendered the provision constitutionally compliant through purposive interpretation. The petition was accordingly disposed of.

Significantly, the Court went beyond the narrow disposal of the petition and issued a direction of broader institutional import. Invoking Article 144 of the Constitution of India under which every civil and judicial authority in the territory of India is duty-bound to act in aid of the Supreme Court, the Bench emphasised that all authorities involved in implementing the MTP Act and its Rules are constitutionally obligated to act in conformity with the Supreme Court's ruling. The Court further requested the Public Health Department of the State of Maharashtra to ensure wide circulation of the Supreme Court's decision to all functionaries responsible for implementing the MTP Act.

## Significance and Implications

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This judgment carries far-reaching implications for the advancement of reproductive rights in India. It firmly establishes that marital status cannot serve as a basis for discriminating between women in matters of reproductive choice. Medical practitioners, hospital committees and administrative authorities implementing the MTP Act are now constitutionally bound to extend the benefit of abortion rights up to 24 weeks equally to unmarried and single women, without requiring them to approach courts to vindicate those rights.

For legal practitioners, healthcare providers, and policymakers, the message from the Bombay High Court is unequivocal: the law does not and constitutionally cannot penalise women for their personal circumstances or relationship status when it comes to accessing safe and legal reproductive healthcare. The time has come for administrative practice to align with this settled constitutional position and for the protections enshrined in the MTP Act to be extended equally to every woman who falls within its legislative embrace.

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