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HSE obtains court order to give baby HIV drugs:

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THE HEALTH Service Executive (HSE) has secured a High Court order allowing doctors to administer certain drugs to a child as soon as it is born to a pregnant HIV-positive woman.

The child is due to be delivered by elective Caesarean section within days.

The HSE had argued antiretroviral prophylaxis medication administered from birth for a four-week period would substantially reduce the risk of transmission of the HIV virus to the child.

The woman opposed the drugs being administered because she believed they represented a serious risk to her child. The woman had also raised issues about whether her HIV-positive diagnosis was accurate, but accepted that diagnosis for the purpose of the court proceedings.

The father of the unborn child, who is no longer in a relationship with the mother, supported the HSE's position but was ruled to have no right of audience before the court. Hearing from the father would not alter the outcome, Mr Justice George Birmingham said.

He also noted the case was not heard in ideal circumstances because a speedy hearing and determination was necessary, given the woman's stage of pregnancy.

In his decision on Saturday, the judge ruled that while the mother may be well-intentioned, her opposition to the antiretroviral drugs being administered upon birth would increase the risks to the child set her against the views of "the entire medical world" and was "unjustified".

This was not a question of the State "acting as a superpower" or "nanny knows best" but of the mother proposing to put her child "at unnecessary risk" and where there was not two reasonable divergent medical views, he ruled.

The medical opinion was unanimous that these drugs should be administered because the possibility of a child at risk of being born with an incurable illness, which would require long-term exposure to antiretroviral drugs when such long-term exposure, had been shown to present greater dangers, he said.

In those circumstances, it was necessary for the court to override the views of this parent, he ruled. It was in the best interest of the child to have the risk of HIV transmission reduced as soon as possible.

He granted a declaration that it was in the best interests of the child to receive such medical treatment as doctors considered necessary, including the antiretroviral treatment. The issue of costs was adjourned to next Wednesday.

Felix McEnroy SC, for the HSE, said the mother would have unlimited access to her child while the infant was receiving the treatment and would be facilitated in every way.

Earlier, Mr Justice Birmingham said the mother was diagnosed HIV positive earlier this year on the basis of tests carried out in different laboratories here and in the UK.

The medical team treating her addressed the risk of transmission of the HIV virus to the child and, to minimise that risk, a package of four elements was involved. These were for women to take antiretroviral drugs during pregnancy, to have an elective Caesarean section, to refrain from breastfeeding after birth and for a four-week course of antiretroviral drugs for the newborn from birth.

Three of those elements were not at issue. The woman had the right not to undergo antiretroviral treatment herself, she had agreed to have a Caesarean and had also agreed not to breastfeed.

The sole issue was whether the court should intervene to direct three antiretroviral drugs be administered to the child – Nevirapine, Zidovudine and Lamivudine – without delay after birth and for four weeks.

The mother was totally opposed to the child receiving this medication.

However the judge said he was in no doubt the best interests of the child would be served by administration of the medication but the issue was not that straightforward because this was not a case of the State or the court knowing best, the judge added.

Family rights were at the heart of the Constitution and this case was further complicated as the parents took different views.