

(2019) 03 JH CK 0010
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1058 Of 2019

Chanda Pandey

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 06-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(g), 226

Citation : (2019) 03 JH CK 0010

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Amritansh Vats, Puja Kumari

Final Decision : Disposed Off

Judgement

This writ petition is under Article 226 of the Constitution of India whereby and whereunder the Clinic and Ultra Sound Clinic of the petitioner running in the name of New Junu Ultra Sound situated at Sadar Hospital Road, Daltonganj, District Palamau has been sealed without issuing any notice and without assigning any reason to the best of the knowledge of the petitioner, therefore, the instant writ petition has been filed.

The ground has been urged that even if there is any illegality, the said ultra sound clinic since is the source of livelihood of the petitioner and therefore, before taking his fundamental right as conferred under Article 19(1)(g) of the Constitution of India, an opportunity of hearing ought to have been granted to the petitioner, having not done so, the authorities have acted illegally.

Ms. Puja Kumari, learned AC to learned GA with all fairness has submitted that the matter may be remitted before the competent authority for taking a decision afresh and to pass a fresh order after providing an opportunity of hearing to the petitioner, if no show cause notice has been issued.

She submits that if the show cause notice has been issued and thereafter any decision has been taken, the authorities may be directed to communicate the

order to the petitioner.

Having heard the learned counsel for the petitioner and after appreciating their rival submissions, it is evident from the material available on record as per the pleadings made in the writ petition that the grievance of the petitioner pertains to sealing of the ultra sound clinic, the ground has been taken that before doing so, the principles of natural justice has not been followed and even in violation of the provisions of The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

Since this Court is disposing of the writ petition at the stage of fresh admission for the reason that the ground of violation of principles of natural justice has been taken, therefore, the Civil Surgeon-respondent No.4 is directed to look into the matter and if any show cause notice has been issued and decision has been taken in pursuance to the response filed by the petitioner, the same shall be communicated to him within a period of three weeks from the date of receipt of copy of the order.

If the decision has been taken without any show cause notice, the concerned respondent is directed to issue a show cause notice within a period of one week from the date of receipt of copy of the order, the petitioner shall make his response within a period of two weeks from the date of receipt of such show cause notice and the concerned respondent shall take decision in accordance with law within a period of two weeks thereafter.

It is made clear that opening of the ultra sound clinic and renewal of license will depend upon the final decision taken by the authority as directed hereinabove as also in accordance with law.

In view of the direction and observation made hereinabove, the writ petition stands disposed of.