

(2011) 05 P&H CK 0194

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 23327 of 2010

Dr. Manoj Lamba

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Citation : (2011) 05 P&H CK 0194

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—Being aggrieved against the order sealing mobile ultrasound machine of the Petitioner, he has filed this writ petition to challenge the said order passed on 8.12.2010. As per the Petitioner, this order is illegal and is effecting his working as a Doctor.

2. The Petitioner has been granted licence for use of mobile ultrasound machine. On an inspection, it was observed that the machine was kept in Almirah under lock in room of the hospital instead of the place, where it was required to be kept. The letter, authorising the use of machine by the Petitioner, contains various conditions like the machine can not be removed from the vehicle and the vehicle has to be used as a genetic clinic. The Petitioner had earlier filed an appeal before Director General of Health Services, Haryana. During this time, raid was conducted on the clinic of the Petitioner registered as `Vaid Sadhu Ram Memorial Hospital, Babain. The Petitioner thereafter was issued notice and the machine in question was sealed.

3. In response to notice issued in the writ petition, it is pointed out that the petition is pre-mature and as such, not maintainable. Giving details of the factual background, it is stated that team comprising of Dr. K.K. Sharma, Deputy Civil Surgeon, Dr. N.K. Jhamb, Deputy Civil Surgeon and Sh.R.K. Harna, Senior Drugs Control Officer, Kurukshetra, was constituted for inspection. The said team had

conducted a raid on the genetic clinic registered in the name of the Petitioner, where this ultrasound machine was initially installed. During the raid, the machine was not found in the genetic clinic/room, where it was initially installed. Sign board of x-ray and ultrasound room was displayed. On enquiry, the machine was found lying locked in almirah in another room. Dr. Pawan Kumar Sharma opened the lock of said almirah and the ultrasound machine was lying in said almirah. It is, therefore, alleged that the Petitioner has challenged the place of ultrasound machine without intimation to the appropriate authority, which is in violation of Rule 13 the Preconception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 , which is as under:

Intimation of change in employees, place or equipment-Every [Genetic counseling centre, Genetic Laboratory, Ultrasound Clinic and imaging Centre] shall intimate every change of employee, place, address and equipment installed, to the appropriate authority with in a period of thirty days of such change.

4. The sealing of the machine has, thus, been justified.

5. The Petitioner initially was represented by a counsel but has now chosen to make submissions in person. He has been heard. The Petitioner has made submissions primarily on the basis of definition of genetic clinic, which according to him would mean a clinic, institution, hospital, nursing home or any place by whatever name called, which is used for conducting pre-natal diagnostic procedure. The Petitioner accordingly contends that keeping the machine locked in a room in the same hospital would not mean that the same was shifted from a genetic clinic. The definition of `genetic clinic' is an inclusive definition and is wide enough. Besides, this has to be given meaning in the light of explanation contained in Section 2(d) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. The genetic clinic will include even a vehicle, where ultrasound machine or imaging machine or scanner is used. The definition, thus, can not be confined to a hospital or nursing home as such.

6. Without going into such niceties, I find that the writ petition, at this stage, is pre-mature. The Petitioner has filed this petition only against show cause notice and no order has been passed on the said show cause notice. The Petitioner may have to go in for an appeal against the order of suspending the licence, which according to the State counsel, has temporarily been ordered.

7. The writ petition, therefore, is dismissed as pre-mature at this stage.