

(2021) 02 DEL CK 0362

In the Delhi High Court

Case No : Civil Writ Petition No. 1808 Of 2021, Civil Miscellaneous Application
No. 5214 Of 2021

Dr. Tarun Kothari

APPELLANT

Vs

District Magistrate/District Appropriate Authority(West) PC &
PNDT Act, GNCT Of Delhi

RESPONDENT

Date of Decision : 23-02-2021

Acts Referred:

Pre-ConceptionAnd Pre-Natal Diagnostic Technique (Prohibition Of Sex Selection) Act,
1994 — Section 21

Citation : (2021) 02 DEL CK 0362

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Prasoon Kumar Mishra, Shadan Farasat

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through video conferencing.
2. The Petitioner - Dr. Tarun Kothari runs a diagnostic centre called Indo-American Health Care at RR13, Miyavali Nagar, Paschim Vihar, New Delhi-110087. The said clinic was registered since 2010 and was allotted registration number being DL/W/2015/0171. Initial registration was for the period 19th May, 2010 to 18th May, 2015. He applied for renewal on 30th March, 2015, which was granted till 17th May, 2020. Sometime in March, 2020, the Petitioner sought further renewal but no renewal was received.
3. Finally, a show cause notice was issued by the appropriate authority on 20th October, 2020 citing three discrepancies in the clinic of the Petitioner due to which the renewal was not being granted. The Petitioner accordingly replied to the show cause notice. However, the plea was rejected vide impugned order dated 22nd January, 2021. Hence, the present writ petition.

4. The Petitioner prays for renewal of the license under provisions of The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. On the last date, Id. Counsel appearing for the GNCTD was requested to take instructions as to whether the Appellate Authority under Section 21 of the Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994 Act is constituted. He has reverted today and submits that the Appellate Authority which consists of three members is duly constituted and functional and can take up the grievances of the Petitioner.

5. The Petitioner however submits that in the entire locality, several patients are being deprived of diagnostic services of the Petitioner and there is an urgent need for de-sealing of the ultra-sound machine and room of the Petitioner and to permit the Petitioner to work in the centre.

6. This Court has perused the show cause notice dated 20th October, 2020. The discrepancies pointed out in the show cause notice are as under:

"a. Notice board depicting ban on Prenatal Sex determination [Rule 14(1)] was not displayed at conspicuous place.

b. The centre is in basement and there are 16 stairs which are very steep and there is no ramp or lift. Steepness of the stairs is unsafe and dangerous to the ANC patients.

c. Board displaying name of the centre was in very bad condition and unreadable."

7. A perusal of the said discrepancies shows that the insofar as (a) and (c) are concerned, the same can be rectified easily by the Petitioner. Further insofar as the centre being run from a basement is concerned, since the Petitioner has always been running the centre from the basement, the same cannot be a grievance which is raised afresh by the Petitioner. However, adequate safeguards and safety measures such as installation of proper rails to enable patients to take support while climbing the stairs etc., can be taken by the Petitioner to ensure the safety of the patients who visit the clinic. Accordingly, the Petitioner's writ petition is transferred to the Appellate Authority and may be considered as an appeal against the order of rejection dated 22nd January, 2021. The appeal shall be taken up next week itself.

8. In the meantime, the Petitioner's clinic shall be de-sealed and any orders which may be passed by the Appellate Authority even in the interim for the purpose of removal of discrepancies and to ensure security and safety of the patients, shall be carried out by the Petitioner. Accordingly, the following directions are issued:

- i) The Petitioner's clinic be immediately de-sealed within a period of five days;
- ii) The present petition be transferred to the Appellate Authority by the Id. Counsel appearing for the Respondent. The Appellate Authority would afford a

hearing to the Petitioner on 1st March, 2021 at 11:30 a.m. The Appellate Authority would consider the interim directions which are to be passed for removal of discrepancies of the Petitioner;

iii) The appeal shall thereafter be heard on merits after affording a proper hearing to the Petitioner and the prayer for renewal shall be adjudicated in accordance with law.

iv) If the prayer for renewal is rejected, the same shall not take effect for a period of two weeks, to enable the Petitioner to avail its legal remedies.

9. The Petition is disposed of in the above terms. All pending applications are also disposed of.