
(2017) 02 P&H CK 0231
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 1406 of 2017

Jain Hospital

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 09-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226
Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 —
Section 18

Citation : (2017) 2 LawHerald 1150

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Keshav Pratap Singh, Advocate, for the Petitioner; Mr. Sandeep Singh Mann, Sr. DAG, Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Amit Rawal, J. (Oral)—This order of mine shall dispose of four writ petitions bearing Nos.1406, 1407, 1408 and 1409 of 2017.

2. The petitioner is aggrieved of the impugned action of the respondents in not de-sealing the ultrasound machines lying in its premises on account of non-renewal of the registration certificate under the Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred to as "1994 Act").

3. Mr. Keshav Pratap Singh, learned counsel appearing on behalf of the petitioner submits that as per the provisions of the Section 18 and Rule 8 of 1994 Act, every diagnostic center/ultrasound clinic is required to be registered with the appropriate authority. The certificate was valid upto 30.09.2016, i.e., w.e.f. 30.09.2011. As per the provisions of 1994 Act, the application has to be made 30 days before the expiry of the registration certificate. However, by mistake/bona fide and innocently, the same was not submitted. It is in this process, the machines used for diagnosis of the various diseases were sealed by the

department. The petitioner had moved an application for granting of new registration but the same was kept pending. It is in this background of the matter, necessity arose to approach this Court for seeking vindication of the grievance and the petitioner approached this Court by filing CWP No.26374 of 2016 and this Court vide order dated 22.12.2016 granted liberty to the petitioner to seek the fresh registration in accordance with law with a direction to the respondents to decide the application within a period of two weeks from the date of its receipt. He further submits that new registration has been granted on 04.01.2017 (Annexure P-6) but yet there is no order of de-sealing. The registration was made way back from the date of expiry and there is no criminal case or any proceeding initiated against the petitioner under 1994 Act.

4. The factum of initiation of proceedings has been denied by Mr. Sandeep Singh Mann, learned Senior Deputy Advocate General, Haryana, after having obtained the instructions from Dr. Mrs. Saryu Sharma, Deputy Civil Surgeon, Gurgaon, who is present in the Court. He further submits that owing to legal opinion sought by the department from the District Attorney, though there was no order of de-sealing in view of the order of this Court, yet the aforementioned action was not taken.

5. Be that as it may. The fact remains that once the new registration has already been granted to the petitioner, machines lying in its premises have been sealed and in the absence of any proceedings initiated under 1994 Act, I deem it appropriate to allow the writ petitions by directing the respondents to de-seal the machines with immediate effect.

6. Accordingly, the writ petitions stands disposed of.