

Court No. - 13

Case :- CRIMINAL APPEAL No. - 576 of 2024

Appellant :- Dr. Siddhartha Patel @ Dr. Siddhartha Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lko And Another

Counsel for Appellant :- Mohammad Alishah Faruqi, Mohd. Akram Siddiqui

Counsel for Respondent :- G.A.

Hon'ble Rajeev Singh, J.

1. In pursuance of earlier order, Dr. A.P. Singh, Additional Chief Medical Officer, Lucknow is present and placed Government Letters dated 06.12.2021, 22.11.2021 and 07.01.2022 which have been taken on record.

2. Heard learned counsel for the appellant, learned A.G.A. for the State and perused the record.

3. The present appeal has been filed with a prayer to quash summoning order dated 28.07.2023 passed by Special Judge, SC/ST Act, Lucknow in Case No.2750/2023 arising out of Case Crime No.592/2022 under Sections 504 I.P.C. and Sections 3(1)(Dha) of SC/ST Act, Police Station Mohanlalganj, District Lucknow.

4. Learned counsel for the appellant submitted that appellant is a proprietor of M/s Sigma Hospital and Trauma Centre, Raebareli Road, Mohanlalganj, Lucknow duly registered in the office of Chief Medical Officer, Lucknow vide Registration No. RMEE2231778 and Certificate No.CMEE2376299 dated 22.06.2023. He further submitted that as per the prosecution case, the complainant of the present case brought his wife to the aforesaid hospital for her treatment and adequate treatment was provided to her but due to condition of his

wife, complainant was advised to sign certain forms but when he refused, the appellant started skirmishing and demanded huge money. It is also alleged therein that when the complainant expressed his inability, he was beaten by the appellant and his associates in the hospital. He further submitted that the charge-sheet was submitted by the Investigating Officer in the most mechanical manner.

5. Learned A.G.A. vehemently opposed the submissions advanced on behalf of the appellant and submitted that the charge-sheet has been filed after detailed investigation and the defence of the appellant can be considered by the trial court. However, he did not dispute this fact that the hospital of the appellant i.e. M/s Sigma Hospital and Trauma Centre, Raebareli Road, Mohanlalganj, Lucknow is registered in the office of Chief Medical Officer, Lucknow as Registration No. RMEE2231778 vide the Certificate No.CMEE2376299 dated 22.06.2023 and it is valid upto 30.04.2024.

6. At this stage, learned counsel for the appellant submits that he does not want to press this appeal on merit and he confines his prayer only to the extent that appellant may be permitted to move bail application under Section 438 Cr.P.C. before the court concerned and suitable directions may be issued for the same being heard and decided expeditiously, in accordance to law.

7. Learned A.G.A. has no objection to the aforesaid prayer.

8. Considering the arguments of learned counsel for the appellant, learned A.G.A., contents of F.I.R., contents of appeal as well as other relevant documents, it cannot be said that no offence is made out

against the appellant and all the submissions made at the bar are related to the disputed questions of fact which cannot be adjudicated upon by this Court in proceedings under Section 482 Cr.P.C.

9. At this stage, only prima-facie case is to be seen in the light of the law laid down by Hon'ble Supreme Court in the cases of "***R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq, another (Para-10) 2005 SCC (Cr.) 283 and Parabatbhai Ahir & Ors. Vs. State of Gujarat AIR 2017 SC 4843***".

10. A seven judges Bench of this Court in the case of "***Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290 and Hon'ble Apex Court in Lal Kamendra Pratap Singh Vs. State of U.P. reported in 2009 (3) ADJ 322 (SC) and in Hussain and Ors. Vs. Union of India (UOI) and Ors. reported in MANU/SC/0274/2017*** have given various directions to criminal Courts for expeditious disposal of Bail applications. The ratio of above mentioned decisions is quite clear that, in the backdrop of Article 21 of the Constitution of India as the personal liberty of a person is at stake, the bail application should be decided, expeditiously.

11. In the recent judgment, the ***Hon'ble Supreme Court in SUO MOTO WRIT (CRL) No. (S) 1 of 2017 In RE: To issue certain guidelines regarding inadequacies and deficiencies in criminal trials vs. The State of Andhra Pradesh & Ors.*** vide its judgment and order dated 20.04.2021 has observed the common deficiencies which

occurred in the proceedings of the criminal cases and approved "The Draft Rules of Criminal Practice 2021" which is the part of the judgment in **Chapter V Rule 17** of aforesaid Rules that the application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself.

12. Further, as the Apex Court in ***Satendra Kumar Antil Vs. Central Bureau of Investigation and another (Special Leave to Appeal (Crl.) No.5191 of 2021*** has already laid down guidelines for grant of bail, without fettering the discretion of the courts concerned and the statutory provisions governing consideration in grant of bail, no specific directions need be issued by this Court as it is expected that the court concerned will take into consideration the necessary guidelines already issued by the Apex Court.

13. In backdrop of aforesaid decisions and keeping in view the entirety of facts and circumstances of the case and having regard to the submissions of learned counsel for the appellant, the appeal is **disposed of** with a direction to the court concerned that if the appellant applies for bail under Section 438 Cr.P.C. before the court concerned within six weeks from today, his prayer for bail shall be considered and decided expeditiously in accordance with law.

14. For a period of six weeks from today or till the appellant applies for bail under Section 438 Cr.P.C., whichever is earlier, no coercive action shall be taken against the appellant in the aforesaid case.

15. However, before parting with the judgment, following facts which have been brought into the notice of this Court, need consideration.

16. A perusal of the registration certificate, Government letters dated 06.12.2021, 22.11.2021 and 07.01.2022, Clinical Establishments (Registration and Regulation) Act, 2010, It is evident that all the clinical establishment as defined in Section 2(C) of the Clinical Establishment (Registration and Regulation) Act, 2010 (hereinafter referred to as 'Act, 2010'), are to be registered in accordance with the provisions of Chapter 3 of the Act, 2010. Section 11 of the Act, 2010 clearly provides that no person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of the Act, 2010 and clinical establishment includes all hospitals having single doctor who runs a clinic. Chapter 5 of Act, 2010 provides for preparation and maintenance of the register of clinical establishments and also states that every State Government shall maintain digital platform related to registration and details of the clinic establishment.

17. It is evident from the register of the hospital in question that the owner of the aforesaid hospital is Dr. Siddhartha Kumar and details of two doctors, namely, Siddhartha Kumar (MBBS-MS, Orthopedist) and his wife, namely, Mrs. Garima Chaudhary (MBBS) along with two para-medical staff, namely, Deepu Verma (Diploma in Pharmacy) and Beena Yadav (GNM) are also shown as they are engaged in the hospital, but their other details such as AADHAR Card number and phone numbers are not mentioned in the register. The aforesaid Government Letter dated 06.12.2022 states that the provisions of Act, 2010 will apply in registration of the clinical establishments.

However, in Para 2(7) of the subsequent Letter dated 22.11.2021, some relaxation has been given to clinical establishments having 30 beds. Thereafter, vide Government Letter dated 07.01.2022, relaxation is extended to the hospitals having 50 beds. Aforesaid three Government Letters are partly in contrary to the provisions of the Act, 2010, Clinical Establishments (Central Government) Rules, 2012 (hereinafter referred to as 'Rules, 2012) as well as provisions of U.P. Establishments (Registration and Regulation) Rules, 2016 (hereinafter referred to as 'Rules, 2016).

18. Government letters dated 06.12.2021, 22.11.2021 and 07.01.2022 as well as Section 2(C), 11, 37, 38, 39, 40, 41 and 45 of Act, 2010 are reproduced as under:

**Government letters dated 06.12.2021, 22.11.2021
and 07.01.2022:-**

"महत्वपूर्ण

संख्या-55/पांच-6-2022

प्रेषक,

*अमित मोहन प्रसाद,
अपर मुख्य सचिव,
उत्तर प्रदेश शासन।*

सेवा में,

*1. महानिदेशक,
चिकित्सा एवं स्वास्थ्य सेवायें,
उत्तर प्रदेश लखनऊ।*

*2. समस्त जिलाधिकारी,
उत्तर प्रदेश।*

*3. समस्त मुख्य चिकित्साधिकारी,
उत्तर प्रदेश।*

चिकित्सा अनुभाग-6

लखनऊ: दिनांक 07 जनवरी, 2022

*विषय- The Clinical Establishment (Registration And
Regulation) Act, 2010*

के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध में।

महोदय,

उपर्युक्त विषय पर चिकित्सा अनुभाग-6 के शासनादेश संख्या-2777/पांच-6-2021, दिनांक 22.11.2021 एवं शासनादेश संख्या-2777/पांच-6-2021, दिनांक 06.12.2021 का सन्दर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध दिशा-निर्देश निर्गत किये गये हैं।

2 उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि प्रश्नगत प्रकरण में महानिदेशक, चिकित्सा एवं स्वास्थ्य सेवायें की अध्यक्षता में गठित समिति की संस्तुति पर सम्यक विचारोपरान्त यह निर्णय लिया गया है कि फिलहाल 50 शैय्या से कम क्षमता वाले चिकित्सालयों/नैदानिक स्थापनों का पंजीकरण वर्तमान में चल रही व्यवस्था के अनुसार जारी रहेगा।

3. 50 या उससे अधिक शैय्या के चिकित्सालयों/नैदानिक स्थापनों का रजिस्ट्रीकरण *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत निर्धारित मानकों के अनुसार किया जायेगा।

कृपया तदनुसार अग्रेतर कार्यवाही करने का कष्ट करें।
भवदीय

ह0

अपठनीय

7.1.22

(अमित मोहन प्रसाद)

अपर

मुख्य सचिव।

संख्या- (1)/पांच-6-2022, तददिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अपर मुख्य सचिव, मुख्यमंत्री, उत्तर प्रदेश शासन।
2. अपर मुख्य सचिव, आयुष विभाग, उत्तर प्रदेश शासन।
3. अपर मुख्य सचिव, श्रम विभाग, उत्तर प्रदेश शासन।
4. प्रमुख सचिव, चिकित्सा शिक्षा विभाग, उ0प्र0 शासन।
5. समस्त मण्डलायुक्त, उत्तर प्रदेश।
6. प्रमुख स्टॉफ ऑफिसर, मुख्य सचिव, उ0प्र0 शासन।
7. अधिशासी निदेशक, यू0पी0टी0एस0यू0 लखनऊ।
8. महानिदेशक, चिकित्सा शिक्षा एवं प्रशिक्षण, उ0प्र0।
9. निदेशक, आयुर्वेद, उ0प्र0 लखनऊ।
10. निदेशक, होम्योपैथी, उ0प्र0, लखनऊ।
11. निदेशक (चिकित्सा उपचार) चिकित्सा एवं स्वास्थ्य सेवा महानिदेशालय, उत्तर प्रदेश लखनऊ।
12. समस्त मण्डलीय अपर निदेशक, चिकित्सा स्वास्थ्य एवं परिवार कल्याण, उत्तर प्रदेश।
13. गार्ड फाइल।

आज्ञा से

ह0 अपठनीय

(प्राणेश चन्द्र शुक्ल)

संयुक्त सचिव।

प्रेषक,

अमित मोहन प्रसाद,
अपर मुख्य सचिव,
चिकित्सा एवं स्वास्थ्य
उत्तर प्रदेश शासन।

सेवा में

1-महानिदेशक,

चिकित्सा एवं स्वास्थ्य सेवाएँ,
उत्तर प्रदेश लखनऊ।

2-समस्त जिलाधिकारी,
उत्तर प्रदेश।

3-समस्त मुख्य चिकित्साधिकारी,
उत्तर प्रदेश।

चिकित्सा अनुभाग-6

लखनऊ: दिनांक 06 दिसम्बर

2021

विषय- *The Clinical Establishment (Registration And Regulation) Act, 2010*
के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध में।

महोदय,

उपर्युक्त विषय पर शासन के आदेश सं0-2777/पांच-6-2021, दिनांक 22. नवम्बर, का सन्दर्भ ग्रहण करें, जिसके द्वारा *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध दिशा-निर्देश निर्गत किये गये हैं। उक्त शासनादेश के प्रस्तर-7 में यह उल्लेख है कि 30 बेड से कम क्षमता वाले नैदानिक स्थापनों की परिस्थितियों को देखते हुए फिलहाल उनका रजिस्ट्रीकरण जनशक्ति, अग्निशमन तथा बायोमेडिकल वेस्ट अधिनियम से सम्बन्धित मानकों के पूर्ण होने पर किया जायेगा।

2 इस सम्बन्ध में मुझे यह स्पष्ट करने का निदेश हुआ है कि 30 शैया से कम क्षमता वाले नैदानिक स्थापनों के सम्बन्ध में पूर्व व्यवस्था में अपेक्षित शर्तों एवं औपचारिकताओं के पूर्ण होने पर, *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत उनका रजिस्ट्रीकरण पूर्व व्यवस्था में अपेक्षित शर्तों/औपचारिकताओं के पूर्ण होने पर किया जायेगा। 30 व 30 से अधिक शै्यायुक्त चिकित्सालयों के रजिस्ट्रीकरण के संबंध में राष्ट्रीय परिषद द्वारा विकसित सभी मानक लागू होंगे।

कृपया उपरोक्तानुसार समयबद्ध रूप से आवश्यक कार्यवाही सुनिश्चित करते हुए नैदानिक स्थापनों का रजिस्ट्रीकरण कराने का कष्ट करें।

भवदीय

H0

अपठनीय

4.12.21

(अमित मोहन प्रसाद)

अपर

मुख्य सचिव।

संख्या- 2777(1)/पांच-6-2021, तददिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अपर मुख्य सचिव, मुख्यमंत्री, उ०प्र० शासन।
2. अपर मुख्य सचिव, आयुष विभाग, उ०प्र० शासन।
3. अपर मुख्य सचिव, श्रम विभाग, उ०प्र० शासन।
4. प्रमुख सचिव, चिकित्सा शिक्षा विभाग, उ०प्र० शासन।
5. समस्त मण्डलायुक्त, उ०प्र०।
6. प्रमुख स्टाफ आफिसर, मुख्य सचिव, उ०प्र० शासन।
7. अधिशासी निदेशक, यू०पी०टी०एस०यू० उ०प्र० लखनऊ।
8. महानिदेशक, चिकित्सा शिक्षा एवं प्रशिक्षण, उ०प्र०।
9. निदेशक, आयुर्वेद, उ०प्र० लखनऊ।
10. निदेशक, होम्योपैथी, उ०प्र०, लखनऊ।
11. निदेशक उपचार महानिदेशालय, चिकित्सा एवं स्वास्थ्य।
12. समस्त मण्डलीय अपर निदेशक, चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग उ०प्र०
13. गार्ड फाइल।

आज्ञा से

ह० अपठनीय

(प्राणेश चन्द्र शुक्ल)

संयुक्त सचिव।

संख्या-298/2021/2777/पांच-6-2021

अमित मोहन प्रसाद,
अपर मुख्य सचिव,
उ०प्र० शासन।

सेवा में

(1) महानिदेशक,
चिकित्सा एवं स्वास्थ्य सेवायें, (2)-समस्त जिलाधिकारी, (3)
समस्त मुख्य चिकित्साधिकारी,
उ०प्र० लखनऊ। उत्तर प्रदेश। उत्तर
प्रदेश।

चिकित्सा अनुभाग-6
2021

लखनऊ: दिनांक 22 नवम्बर,

विषय:- *The Clinical Establishment (Registration And Regulation) Act, 2010*
के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध में।

महोदय,

आप अवगत है कि *The Clinical Establishment (Registration And Regulation) Act, 2010* के प्राविधानों के अनुसार प्रदेश के सभी नैदानिक स्थापनों का रजिस्ट्रीकरण आवश्यक है। अधिनियम के प्राविधानों के अन्तर्गत राष्ट्रीय परिषद द्वारा नैदानिक स्थापनों का वर्गीकरण तथा विभिन्न श्रेणियों के लिये मानकों को विकसित किया गया है जिसका विवरण चिकित्सा स्वास्थ्य एवं परिवार कल्याण मंत्रालय,

भारत सरकार की वेबसाइट www.clinicalestablishments.gov.in पर उपलब्ध है। अधिनियम की धारा-10 के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण हेतु चिकित्सा अनुभाग-6 की अधिसूचना सं0-2374/पॉच-6-2021, दिनांक 16 सितम्बर, 2021 द्वारा जिलाधिकारी की अध्यक्षता में जिला रजिस्ट्रीकरण प्राधिकरण तथा अधिसूचना संख्या-2375/पॉच-6-2021, दिनांक 16 सितम्बर, 2021 द्वारा राज्य नैदानिक स्थापना परिषद के गठन के आदेश निर्गत किये जा चुके हैं किन्तु अभी तक *The Clinical Establishment (Registration And Regulation) Act, 2010* के प्राविधानों के अन्तर्गत प्रदेश में नैदानिक स्थापनों के रजिस्ट्रीकरण का कार्य प्रारम्भ नहीं हुआ है।

2- अतः इस सम्बंध में सम्यक विचारोपरान्त मुझे यह कहने का निदेश हुआ है कि प्रदेश में *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत नैदानिक स्थापनों के रजिस्ट्रीकरण हेतु निम्नानुसार कार्यवाही किये जाने का निर्णय लिया गया है-

(1) नैदानिक स्थापनों के रजिस्ट्रीकरण के सम्बन्ध में वर्तमान प्रचलित व्यवस्था दिनांक 31.12.2021 के पश्चात लागू नहीं रहेगी। दिनांक 01.01.2022 से सभी नैदानिक स्थापनों का रजिस्ट्रीकरण *The Clinical Establishment (Registration And Regulation) Act, 2010* एवं उसके अन्तर्गत बनाये गये नियमों/प्राविधानों के अन्तर्गत जिला रजिस्ट्रीकरण प्राधिकरण द्वारा किया जायेगा।

(2) वर्तमान व्यवस्था के अन्तर्गत पंजीकृत समस्त नैदानिक स्थापनों के पंजीकरण की वैधता दिनांक 31.03.2022 को स्वतः समाप्त हो जायेगी और ऐसे सभी नैदानिक स्थापनों को दिनांक 31.03.2022 से पूर्व अपना रजिस्ट्रीकरण *The Clinical Establishment (Registration And Regulation) Act, 2010* के अन्तर्गत कराना आवश्यक होगा।

(3) इस प्रयोजनार्थ महानिदेशक, चिकित्सा एवं स्वास्थ्य सेवार्यें
उ0प्र0 द्वारा सम्बन्धित पोर्टल में यथा आवश्यकता सुधार/संशोधन तत्काल करा लिया जायेगा और दिनांक 15.12.2021 से सम्बन्धित पोर्टल पर नैदानिक स्थापनों के पंजीकरण हेतु आवेदन की सुविधा उपलब्ध करा दी जाएगी।

(4) इस हेतु सुसंगत नियमावली के अन्तर्गत प्रत्येक जिला रजिस्ट्रीकरण प्राधिकरण तथा राज्य परिषद का खाता किसी राष्ट्रीय कृत बैंक में दिनांक 15.12.2021 से पूर्व अनिवार्य रूप से खुलवा लिया जाय जिससे रजिस्ट्रीकरण/अपील हेतु अपेक्षित धनराशि उक्त खाते में जमा की जा सके।

(5) इस हेतु अन्य आवश्यक व्यवस्थाएँ पूर्ण कराते हुए सभी सम्बन्धित मुख्य चिकित्साधिकारियों/अपर मुख्य चिकित्साधिकारियों का दिनांक 15.12.2021 से पूर्व प्रशिक्षण पूर्ण करा लिया जाएगा।

(6) उपरोक्त व्यवस्था का व्यापक प्रचार-प्रसार कराया जाए जिससे सभी सम्बन्धित व्यक्ति/नैदानिक स्थापना उक्त व्यवस्था से भली-भाँति अवगत हो जाएँ तथा समयान्तर्गत रजिस्ट्रीकरण हेतु आवेदन कर सकें।

(7) नैदानिक स्थापनों का रजिस्ट्रीकरण नियमानुसार राष्ट्रीय परिषद द्वारा विकसित मानकों के आधार पर जिला रजिस्ट्रीकरण प्राधिकरण द्वारा किया जायेगा। 30 बेड से कम क्षमता वाले नैदानिक स्थापनों की परिस्थितियों को देखते हुए फिलहाल उनका रजिस्ट्रीकरण जनशक्ति, अग्निशमन तथा बायोमेडिकल वेस्ट अधिनियम से सम्बन्धित मानकों के पूर्ण होने पर किया जायेगा। 30 व 30 से अधिक शैय्यायुक्त चिकित्सालयों के रजिस्ट्रीकरण के सम्बन्ध में राष्ट्रीय परिषद द्वारा विकसित सभी मानक लागू होंगे।

कृपया उपरोक्तानुसार समयबद्ध रूप से आवश्यक कार्यवाही सुनिश्चित करते हुए नैदानिक स्थापनों का रजिस्ट्रीकरण कराने का कष्ट करें।

भवदीय

मोहन प्रसाद

अमित

अपर

मुख्य सचिव।

संख्या- 298/2021/2777(1)/पांच-6-2021, तददिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अपर मुख्य सचिव, मुख्यमंत्री, उ०प्र० शासन।
2. अपर मुख्य सचिव, आयुष विभाग, उ०प्र० शासन।
3. अपर मुख्य सचिव, श्रम विभाग, उ०प्र० शासन।
4. प्रमुख सचिव, चिकित्सा शिक्षा विभाग, उ०प्र० शासन।
5. प्रमुख स्टाफ आफिसर, मुख्य सचिव, उ०प्र० शासन।
6. अधिशासी निदेशक, यू०पी०टी०एस०यू० उ०प्र० लखनऊ।
7. महानिदेशक, चिकित्सा शिक्षा एवं प्रशिक्षण, उ०प्र०।
8. निदेशक, आयुर्वेद, उ०प्र० लखनऊ।
9. निदेशक, होम्योपैथी, उ०प्र०, लखनऊ।
10. निदेशक (उपचार), महानिदेशालय, चिकित्सा एवं स्वास्थ्य।
11. गार्ड फाइल।

आज्ञा से

प्राणेश चन्द्र शुक्ल

संयुक्त सचिव।

Sections of Clinical Establishments (Registration and Regulation), Act, 2010

2(c) “clinical establishment” means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not, and shall include a clinical establishment owned, controlled or managed by—

(a) the Government or a department of the Government;

(b) a trust, whether public or private;

(c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;

(d) a local authority; and

(e) a single doctor,

11. Registration for clinical establishments.—*No person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of this Act.*

37. Register of clinical establishments.—*(1) The authority shall within a period of two years from its establishment, compile, publish and maintain in digital format a register of clinical establishments, registered by it and it shall enter the particulars of the certificate so issued in a register to be maintained in such form and manner, as may be prescribed by the State Government.*

(2) Each authority, including any other authority set-up for the registration of clinical establishments under any other law for the time being in force, shall supply in digital format to the State Council of clinical establishments a copy of every entry made in the register of clinical establishments in such manner, as may be prescribed to ensure that the State Register is constantly up-to-date with the registers maintained by the registering authority in the State.

38. Maintenance of State Register of clinical establishments.—*(1) Every State Government shall maintain in digital and in such form and containing such particulars, as may be prescribed by the Central Government a register to be known as the State Register of clinical establishments in respect of clinical establishments of that State.*

(2) Every State Government shall supply in digital format to the Central Government, a copy of the State Register of clinical establishments and shall inform the Central Government all additions to and other amendments in such register made, for a particular month by the 15th day of the following month.

39. Maintenance of National Register of clinical establishments.—The Central Government shall maintain in digital format an All India Register to be called as the National Register of clinical establishments that shall be an amalgam of the State Register of clinical establishments maintained by the State Governments and shall cause the same to be published in digital format.

40. Penalty.—Whoever contravenes any provision of this Act shall, if no penalty is provided elsewhere, be punishable for the first offence with fine which may extend to ten thousand rupees, for any second offence with fine which may extend to fifty thousand rupees and for any subsequent offence with fine which may extend to five lakh rupees.

41. Monetary penalty for non-registration.—(1) Whoever carries on a clinical establishment without registration shall, on first contravention, be liable to a monetary penalty up to fifty thousand rupees, for second contravention with a monetary penalty which may extend to two lakh rupees and for any subsequent contravention with a monetary penalty which may extend to five lakh rupees.

(2) Whoever knowingly serves in a clinical establishment which is not duly registered under this Act, shall be liable to a monetary penalty which may extend to twenty-five thousand rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be

deposited within thirty days of the order in the account referred to in sub-section (8) of section 42.

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

45. Offences by Government Departments.—(1)

Where an offence under this Act has been committed by any Department of Government within a period of six months after the commencement of this Act, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

19. On a careful reading of the aforesaid, this Court finds that the objects of the Act, 2010 were to supervise and regulate the quality of service provided by the Health Care Delivery System to the people by Public as well as Private clinical establishments.

20. However, for the last few days, it is found that several clinics and hospitals, in different parts of the State, are being run without proper registration under the provisions of Act, 2010, as also the provisions of Act, 2010 are not being complied with in registration of clinical establishments as defined in Section 2(C) read with Section 11 of the Act, 2010.

21. In view of the above, it is expected from the Additional Chief Secretary, Department of Medical Health, U.P. to revisit the aforesaid Government Letters dated 06.12.2021, 22.11.2021 and 07.01.2022, to ensure the provision of Act, 2010, Rule, 2012 as well as Rules, 2016 and fire safety, etc.

22. Senior Registrar of this Court is directed to communicate this order to the Additional Chief Secretary, Medical & Health, Government of U.P., Lucknow for necessary action.

Order Date :- 1.3.2024/V. Sinha