

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1595 of 2015

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Ram Ishwar Prasad S/o Dharmdeo Prasad of Village + P.O.- Bhanta
Pokhta, P.S.- Siwan Muffasil, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. Civil Surgeon-cum-Chief Medical Officer, Siwan
3. The District Magistrate, Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Verma

For the State Mr. Dhuvendra Kumar A.C. to GP-20

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 03-09-2015 Heard the counsel for the petitioner and A.C. to G.P.20
for the State.

A counter affidavit has been filed on behalf of the
respondent nos. 2.

The petitioner claims to hold a valid licence/registration
from the State respondent(s) to run ultrasound centre called
'Anand Ultrasound' in the township of Siwan. On completion of
formality, the registration/licence was granted vide Registration
No. 02/2012-13 which is valid upto 04.06.2017. The respondent-
Civil Surgeon made a surprise inspection of the centre in question
and finding that the machine was being operated by a person not
authorized to do so passed the order contained in memo no.842

dated 29.06.2013 whereby the registration of the centre was cancelled.

The contention of the petitioner is that no show cause notice was issued to the petitioner to explain the irregularity, if any, found in course of surprise inspection of the centre before passing the order. The petitioner could have explained the circumstances to the satisfaction of the authority that in running the centre no illegality/irregularity was committed. The order has been passed illegally. In this connection, he has relied on section 20 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short 'the Act') wherefrom it appears that a notice is required to be issued to the licensee of the centre who has been registered with the government before such outright cancellation. However, in sub-clause 3 thereof it has been provided that notwithstanding anything contained in the provisions of the Act the appropriate authority can pass an order for cancellation and can suspend the registration of the centre without issuing any such notice in public interest. The petitioner has further submitted that by the same impugned order the registrations of five centres which were inspected between 12.06.2013 to 13.06.2013 were cancelled. Aggrieved by the order of cancellation, one of them filed a writ

petition being CWJC No. 14200 of 2013 which was allowed by order dated 02.09.2013, web copy whereof has been handed in by the petitioner which is taken on record and marked 'X' for identification.

The counter affidavit of the respondent is cryptic. It does not clarify the reasons which actuated/prompted the respondent-competent authority to outrightly cancel the registration of the centre. An appeal against such cancellation is provided under the Act. It has been submitted that the petitioner filed the present writ application without availing the remedy of appeal since there has been blatant violation of the rule-provision.

Having heard the parties and on going through the materials on record, this Court is satisfied that the application deserves to be disposed of by the following order:-

The petitioner treating Annexure-1 as the notice shall file his reply/show cause before the competent authority/Civil Surgeon-cum-Medical Officer, Siwan within three weeks whereafter the said respondent shall examine the same and pass appropriate order within four weeks therefrom. In doing so the respondent authority shall not be precluded or prejudiced by the order dated 29.06.2013. In case the order is not passed by the

respondent within 04 weeks of filing reply/show cause, the order contained in annexure-1, insofar as it relates to the petitioner, shall become inoperative and the petitioner shall be entitled to run the centre in question until passing of the order by the respondent authority in the light of the present order.

(Kishore Kumar Mandal, J)

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