

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.21728 of 2013**

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Md. Reyazuddin S/o Md. Serajuddin resident of village Chhatauni Dhaka Raod,  
P.O. Motihari, P.S. Chatauni, Dist. East Champaran.

.... .... Petitioner

Versus

- 1.The State of Bihar
2. The Principal Secretary, Health Services, Govt. of Bihar, Patna.
3. The Director, Health Services, Govt. of Bihar, Patna.
4. The District Magistrate, East Champaran, Motihari
- 5.The Civil Surgeon-cum-Chief Medical Officer, East Champaran, Motihari.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Shri Prakash Srivastava

For the Respondent/s : Mr. Harish Kumar GP-32

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL**

**ORAL JUDGMENT**

**Date: 09-10-2015**

Heard Mr. Shri Prakash Srivastava for the petitioner and

Mr. Harish Kumar GP-32 for the State.

The petitioner own and runs a ultra sound clinic/centre in the name and style of Life Line Ultra sound in Ghorasahan in the District of East Champaran. Any person running such centre is required to get registration from the concerned authority under the Pre-conception and Pre-natal Diagnostic Techniques ( Prohibition of Sex Selection) Act, 1994 ( for short ‘the Act’) . Annexure-1 is the certificate of registration granted to the petitioner which is valid till 9.10.2016 . The respondent- Civil Surgeon cum Chief Medical Officer carried out inspection of the ultra sound centre of the petitioner and finding several

illegality/irregularities in the running of the centre passed the order dated 26.5.2013 (Annexure-5) cancelling the registration of the ultra sound centre of the petitioner for the deficiencies /irregularities disclosed therein. Aggrieved thereby the present writ petition has been filed.

It has been submitted by Mr. Srivastava that the order has been passed in a gross violation of the rules of natural justice inasmuch as no notice prior to issuance of the impugned order was issued soliciting response of the petitioner. The order is, therefore, completely illegal. It has been submitted by the counsel for the petitioner that a representation has also been filed before the civil Surgeon against such cancellation which has not till date been adverted to and disposed of.

In contra, State respondent while supporting the impugned order has drawn attention of the Court to the provisions contained in Sub Section 3 of Section 20 which reads as under:-

“3. Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section(1).”

It has been submitted that if gross violation of the Act is found in running the Centre registered thereunder the appropriate authority has been empowered to pass order either to suspend or cancel the registration. Anybody aggrieved thereby may file appeal questioning the legality of the order . He has referred in this regard to Section 21 of the Act which provides filing of an appeal. Rule 19 of the 1996 Rules framed under the Act provides the forum and procedure of filing an appeal. It appears that any such appeal should have been filed within 30 days from the date of the order.

Considering the rival submissions, in my view, the petitioner should assail the order (Annexure-5) by filing the appeal before the appropriate/competent authority. If any such appeal is filed within 03 weeks, the appellate authority in view of the provisions contained in the Rule shall condone the delay and consider the appeal of the petitioner on its own merit and dispose of the same strictly within the time provided in Rule 19.

The application is disposed of.

**(Kishore Kumar Mandal, J)**

Shyam/-

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