

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 1151 OF 2015

Dr. Gopal s/o Moreshwar Battalwar

.. PETITIONER

VERSUS

Medical officer of Health /
Appropriate Authority undertaken
PCPNDT Department

.. RESPONDENT

Mr. P.R. Katneshwarkar, advocate for petitioner.
Mr. M.V.Deshpande, advocate for respondent.

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CORAM : R.M. BORDE &

V. K. JADHAV JJ.

DATE : 18th MARCH, 2015.

PER COURT :

1. Petitioner is praying for quashment of order dated 22.10.2014 passed by the appropriate authority under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, thereby confirming deletion of name of petitioner from the certificate of registration issued in favour of Life Line Diagnostic Centre / Suryamohan Hospital.

2. On consideration of application for issuance of certificate of registration under the provisions of PCPNDT Act, the certificate of registration came to be issued on 05.11.2011 for a period of five years in favour of Life Line Diagnostic Center conducted by petitioner, Dr. R.K. Agrawal and Dr. Bolnewar. Report came to be lodged against petitioner in respect of commission of offence punishable under the provisions of Medical Termination of Pregnancy Act and, the charge sheet is stated to have been

presented to the trial Court. Trial Court directed framing of charge which order is subjected to challenge in Criminal Revision Application No. 49/2014 and this Court. While granting rule in the matter, Court has directed stay of further proceedings pending before the Trial Court. Another report has been presented against petitioner as well as Dr. R. K. Agrawal in respect of commission of offence punishable under the provisions of PCPNDT Act, 1994. Petitioner contends that although charge-sheet is presented, charges have not been framed by the criminal court in the aforesaid matter. Life Line Diagnostic Center through its partners has approached this Court by presenting Writ Petition No. 520/2014 impeaching the action of respondent – appropriate authority of directing suspension of registration and license for sonography center run by petitioner under the name Life Line Diagnostic Center. Writ petition presented by Life Line Diagnostic Center came to be allowed and this Court directed quashment of the order dated 04.12.2013 passed by the appropriate authority and the order dated 09.08.2013 passed by the appropriate authority / medical officer Nanded-Waghala Municipal Corporation, Nanded. As a consequence of quashment of the order directing suspension registration, on consideration of request of Dr. Agrwal, the appropriate authority restored the certificate of registration in favour of Life Line Diagnostic Center. However, while directing restoration of the certificate of registration, names of Dr. Agrawal and Dr. Patil are only recorded in the certificate whereas name of petitioner has been deleted. Petitioner is objecting to deletion of his name from certificate of registration. According to petitioner, the action of respondent – appropriate authority in directing deletion of his name from the certificate of registration is violative

of the order issued by this Court in Writ Petition No. 520/2014. It is further contended that the grievance raised by petitioner in respect of deletion of his name has also not been considered favourably and his request for restoration of his name in the registration certificate has been turned down erroneously.

3. Affidavit-in-reply has been presented on behalf of respondent no. 1 Dr. Meera Kulkarni, Medical Health Officer as Appropriate Authority, Nanded Waghala City Municipal Corporation, Nanded. It is contended by respondent that the name of petitioner has been deleted from the partnership form and said fact has been communicated by Dr.Agrawal on 12.08.2013 to the Municipal Corporation. Dr. Agrawal in his communication has requested for deleting name of petitioner from the registration certificate and, acting upon the communication of Dr.Agrawal, name of petitioner has been struck off from the registration certificate. Petitioner controverts the contentions raised by respondent and contends that inafct Dr. Agrawal has sworn an affidavit in support of the petitioner and that Dr. Agrawal and other partners of the firm do not have any objection for retention of name of petitioner in the registration certificate. We do not propose to go into the disputed question of fact raised before us in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India.

4. Even on consideration of provisions of section 20 of the PCPNDT Act, 1994, request made by petitioner for issuance of registration certificate in

his name is not liable to be considered. In view of section 20 of the Act, the Appropriate Authority may suo motu, or on complaint, issue notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice. Sub-section 2 of section 20 provides that if, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be. Sub-section 3 provides that 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).

5. In the instant matter it is not disputed that criminal action is initiated against petitioner and proceeding under PCPNDT Act is pending in the Court. Apart from pendency of criminal proceeding, there is violation of provisions of the act at the instance of petitioner. Not only this, petitioner is also involved in a case under the provisions of Medical Termination of Pregnancy Act. In the circumstances, we do not deem it appropriate to case

interference in the matter in exercise of extra ordinary jurisdiction conferred under Article 226 of the Constitution of India. Remedy is provided under section 21 of the PCPNDT Act, 1994, which the petitioner has not availed.

6. In view of above, no interference is called for in the instant petition. Petition stands rejected.

(V.K. JADHAV)
JUDGE

(R. M. BORDE)
JUDGE

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