

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

WRIT PETITION NO.10578 OF 2014

Dr. Deepesh s/o Bhagwanrao Chemate  
Age: 38 Yrs., occu. Medical Practitioner  
R/o Devgiri X-ray Sonography Clinic  
Paithan, Tq. Paithan, District  
Aurangabad

- PETITIONER

VERSUS

- 1) The State of Maharashtra  
Through its Secretary,  
Department of Public Health  
and Family Welfare, Mantralaya,  
Mumbai.
- 2) The Appropriate Authority,  
Medical Officer, under the  
Pre-Conception and Pre-Natal  
Diagnostic Techniques  
(Prohibition of Sex Selection)  
Act. Naib Tahsildar & Appropriate  
Authority under PCPND,  
Medical Superintendent, Rural  
Hospital, Bidkin, Tq. Paithan,  
Dist. Aurangabad.

- RESPONDENTS

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Mr. Pramod F. Patni, Advocate for Petitioner;  
Mr. PP More, AGP for Respondent Nos. 1 and 2.

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**CORAM :     R.M. BORDE &  
                              P.R. BORA, JJ.**

**DATE :     10<sup>th</sup> February, 2015.**

**ORAL JUDGMENT (PER: -R.M. BORDE, J.)**

- 1) Leave to correct description of Respondent  
No. 2. Corrections be effected forthwith.

2) Heard. Rule. With the consent of parties, the petition is taken up for final disposal at admission stage.

3) The petitioner is practicing Radiologist and is running a Sonography centre at Paithan. It is the contention of the petitioner that Respondent No.2 inspected the hospital of the petitioner and during inspection, he noticed certain irregularities. The Respondent No.2, on the basis of his observations during inspection conducted on 18.2.2012, issued a show cause notice dated 25.3.2012 to the petitioner, calling upon him to furnish his explanation within five days. The petitioner tendered his explanation to the said show cause notice on 12.4.2012. It does appear that for more than 2 ½ years, no steps were taken by the Appropriate Authority. However, suddenly, on 11.11.2014, the Appropriate Authority, along with Divisional Enquiry Squad, paid visit to the hospital of the petitioner and conducted panchanama. Respondent No.2 proceeded to seal the Sonography machines; took away the registration documents of the Sonography clinic from the hospital of the petitioner.

4) The petitioner contends that such action taken by Respondent no.2 is illegal and in violation of the provisions of law. It is further contended by the petitioner that after inspection of the hospital, which was conducted in the month of February, 2012, for about 2 ½ years, no steps were taken by the authorities and surreptitiously, Respondent No.2

proceeded to take action of sealing the Sonography machines and took away the registration documents from the hospital of the petitioner. The petitioner further submits that it has not been recorded by Respondent no.2 anywhere that the actions of the petitioner or his inactions may furnish any evidence of commission of crime, nor there is any record maintained, indicating that the Sonography machines itself would reveal the evidence in respect of commission of crime by the petitioner. The action of the Respondent no.2 is not preceded by an order, which is a requirement of law.

5) Our attention is invited to Section 30(1) of the Act of 1994, which reads thus, -

**"30. Power to search and seize records, etc** - (1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling centre, Genetic Laboratory, Genetic clinic or any other place, such Authority or any office authorized in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such Authority or officer considers necessary, such Genetic counselling Centre, Genetic Laboratory, Genetic clinic or any other place and examine any record, register, document, book, pamphlet, advertisement

or any other material object found therein and seize and seal the same if such Authority or office has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act."

6) It is contended that the Authority or the officer has not recorded reasons, in writing, for its/his satisfaction to take action as regards sealing of the sonography machines and that he has no reason to believe that the said machines may furnish evidence of the commission of the offence punishable under the Act.

7) In the instant matter, since the impugned action is not preceded by any order, there arises no question of satisfaction or recording the reasons by the Authority empowered to take action. Thus, the impugned action is in breach of Section 30(1) of the Act of 1994. It was open for the Respondent No.2 to pass appropriate order, on recording his satisfaction, as contemplated under Section 30(1) of the Act and then to proceed to take action.

8) In view of the above, writ petition is allowed. The action taken on behalf of Respondent no.2 of sealing the Sonography machines and the probes and taking away the registration documents, is quashed and set aside. Respondent No.2 is directed to de-seal the said Sonography machines as well as

probs and return back the registration documents to the petitioner within a period of fifteen days from the date of the order. It is needless to point out that it would be open for authorities to take appropriate steps in accordance with the provisions of Act of 1994 and the Rules framed there under.

9) Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

**sd/-**  
**(P.R.BORA)**  
**JUDGE**

**sd/-**  
**(R.M.BORDE)**  
**JUDGE**

bdv/