

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4637 OF 2014

Mrs. Ketki Amol Jamsandekar ..Petitioner.

Versus

Taluka Appropriate Authority and Ors. ..Respondents.

Mr. Virag Tulzapurkar Sr.Counsel with Mr. Vishwajit Sawant, Mr. Ajit Anekar and Mr. Prabhakar Jadhav i/by Auris Legal, advocates for petitioner.

Mr. S.K.Shinde, PP with Mrs.M.M.Deshmukh, APP for the State.

Coram : RANJIT MORE &
R.G.KETKAR, JJ.

Date : **2nd September, 2015.**

P. C. :

Heard Mr. Tulzapurkar learned Senior Counsel for the petitioner and Mrs. Deshmukh learned APP for the State.

2 Petitioner by this petition is challenging resolution dated 22.11.2014 issued by respondent no.4 and consequential orders dated 24.11.2014 and 27.11.2014 passed by respondent nos.3 and 2 respectively. Orders are mainly challenged on the ground that principles of natural justice are not followed in-as-much as petitioner is not given personal hearing before passing

those resolution and orders. Mr. Tulzapurkar, the learned Senior Counsel for petitioner, also invited our attention to the provisions of Section 20 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (In short 'Said Act') and especially Clause 2 thereof. Perusal of the said provision makes it abundantly clear that before passing any order under the said Act, reasonable opportunity of being heard has to be given to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic.

3 Mrs. Deshmukh learned APP for the State does not dispute proposition of the petitioner that personal hearing as contemplated under Sub-section (2) of Section 20 is not given to the petitioner. She also fairly stated that clause (3) of Section 20 is not applicable in the present case.

4 Faced with the difficulty stated above, Mrs. Deshmukh , the learned APP having taken instructions from Dr. Shridhar A. Jadhav, Medical Superintendent, Rural Hospital, Devgad, Sindhudurg, who is present in the Court makes a statement that

respondents are withdrawing resolution dated 22.11.2014 issued by respondent no.4 as well as orders dated 24.11.2014 and 27.11.2014 passed by respondent nos.3 and 2 respectively. She further states that petitioner would be given an opportunity of hearing and thereafter respondents will pass appropriate orders. Statements accepted.

5 In view of the aforesaid statements, grievance of the petitioner raised in the petition no more survives. Petition is disposed of by passing the following order:

(I) Resolution dated 22.11.2014 issued by respondent no.4 as well as orders dated 24.11.2014 and 27.11.2014 passed by respondent nos.3 and 2 stand withdrawn.

(II) Petitioner shall remain present before respondent no.1 at 11.00 a.m. on 6.10.2015 for hearing in pursuance of the show-cause notice dated 29.10.2014.

(III) Respondent no.1 thereafter shall give personal hearing to the petitioner and pass

appropriate orders.

(IV) In the event, the order is adverse to the interest of the petitioner, the same shall not be given effect for a period of two weeks from the date of communication thereof to the petitioner.

6 All contentions of the petitioner are expressly kept open.

[R.G.KETKAR, J.]

[RANJIT MORE, J.]