

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.696 of 2015 (O&M)
Date of Decision: May 07, 2015

State Appropriate Authority, Panchkula and another
.....Appellants
versus
Medscan Diagnostic Imaging Centre
.....Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Deepak Manchanda, Additional AG, Haryana,
for the appellants.

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- 1· Whether Reporters of Local papers may be allowed to see the judgment?
- 2· To be referred to the Reporters or not?
- 3· Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The order dated 15.12.2014 whereby learned Single judge has allowed the writ petition and quashed the action of the appellants in seizing MRI and CT Scan machines installed by the respondent in its genetic clinic, is under challenge in this letters patent appeal.

[2] Some of the undisputed facts are as follows.

[3] The respondent was a registered 'genetic clinic' under Section 91(1) of the PC and PNDT Act, 1994 (for short, 'the Act'), for a period of five years which stands expired on 23.11.2010. The respondent moved an application for renewal of its registration on 09.11.2010 but, we are informed by learned State counsel that such application was declined as the respondent had not employed a Radiologist. This fact was duly admitted by the respondent also in his application though

renewal was sought on the premise that the 'genetic clinic' shall be made functional only after appointing professionally qualified person.

[4] The respondent's 'genetic clinic' has MRI and CT Scan machines also. The appellant-authorities seized those machines on the ground that no qualified Radiologist was employed and that the MRI and CT Scan machines were required to be separately registered. The justification given by the appellants was that MRI and CT Scan machines can be used to determine the sex of the fetus, hence these machines are required to be registered.

[5] While examining the question whether the MRI and CT Scan machines require separate registration, learned Single Judge, on a consideration of the statutory scheme under the Act and after taking cognizance of the fact that there is very poor detection of violations under the Act and hardly there is any conviction despite brazen violations, has held that the statute does not require licensing or registration for MRI and CT Scan machines once the 'genetic clinic' itself is duly registered under the Act.

[6] We have heard learned Additional Advocate General, Haryana in support of the appeal.

[7] With reference to two specific queries raised by us, it could not be disputed that MRI and CT Scan machines were seized merely on the basis of suspicion or apprehension as there was never any complaint for violation of the provisions of the Act by the respondent. Secondly, there is no provision in the Act to construe that MRI and CT Scan machines are required to be registered separately even if the clinic has been got registered as a 'genetic clinic' under Section 91 of the Act.

[8] In this view of the matter, we find no ground to interfere with the order passed by learned Single Judge.

[9] Dismissed.

[SURYA KANT]
JUDGE

May 07, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM No.1442 of 2015 in
LPA No.696 of 2015

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State Appropriate Authority and another
versus
Medscan Diagnostic Imaging Centre

Present : Mr.Deepak Manchanda, Additional AG, Haryana
for the applicant-appellants.

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For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and 80 days'
delay in filing the appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

May 07, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE