

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16564 of 2015

Perfect Ultrasonodgraphy Centre through Md. Reyazuddin, Son of Md. Jamaluddin, Resident of Kushmahwa Bazar, P.S.- Dhaka, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna.
2. The Collector, East Champaran.
3. The Chief Medical Officer-cum-Civil Surgeon, East Champaran.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon

For the Respondent/s : Mr. U.S.S.Singh, GP-1

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 05-05-2016

Heard Mr. Tandon for the petitioner as well as the counsel for the State.

Both parties agreed for disposal of the matter at the admission stage.

Hence the order.

Indisputably, vide annexure-4 dated 25.03.2013, the petitioner was put on notice to explain the illegality found in course of surprise inspection of his ultrasonography centre and the licence issued to run the centre was suspended.

It is stated that a show cause or reply was submitted by the petitioner in response to the said notice (Annexure-4) on 05.04.2013. No decision thereafter has been taken and the centre in question of the petitioner continues to be inoperative/closed by virtue of the order dated 05.04.2013 (Annexure-4).

The counsel refers to section 20 of the Pre Conception and Pre natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short 'the Act') in order to impress upon the Court that the respondent Civil Surgeon is

required to take a decision with respect to cancellation or suspension of registration of the petitioner's ultrasonography centre after considering the reply/show cause. The same has not been done till date.

On going through the provisions, particularly section 20(1) (2), it appears that a reasonable opportunity of being heard is required to be given before cancelling the licence. Suspension is by way of interim step. The respondents, it appears, have defaulted in complying with the requirement of law by not passing a final order after considering the cause shown by the petitioner.

Learned counsel for the State, on the other hand, states that if the order which is required to be passed in the light of the provisions contained in section 20 of the Act has not been passed, this Court may direct for considering the matter in accordance with those provisions of the Act.

Having considered the rival submissions of the parties, the writ application is disposed of directing the respondent Civil Surgeon-cum-Chief Medical Officer to pass the fresh order with respect to the ultrasonography centre in question strictly in terms of the provisions contained in section 20 of the Act, if not already passed, as quickly as possible, preferably within one month from the date of receipt/production of a copy of this order.

(Kishore Kumar Mandal, J)

HR/-

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