

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13080 of 2013

Amrendra Kumar, S/O Krishna Kishore Prasad, Resident of Village- Barauli Road
Baraharia, P.S- Baraharia, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Executive Director State Health Committee Bihar, Patna.
3. The Principal Secretary, Health Department Bihar, Patna.
4. The Civil Surgeon- Cum- Chief Medical Officer, Siwan.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava
For the Respondent/s : Mr. Sanjay Pandey, GP-21
Mr. Nishant Kr. Jha, AC to GP-21

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-04-2016

Heard Mr. Vijay Shankar Shrivastava, learned counsel
appearing for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the order bearing Memo
no.749 dated 1.6.2013, whereby the Civil Surgeon –cum- Chief
Medical Officer, Siwan has been pleased to cancel the licence of
eight Ultrasound centres including that of the petitioner appearing
at serial no.1 of the order, in exercise of power vested under the
Pre-Conception and Pre-Natal Diagnostic Techniques (Protection
of Sex Selection) Act, 1994 (hereinafter referred to as ‘the Act’).

Mr. Shrivastava, learned counsel appearing for the
petitioner has made a very short submission. He submits that the
order has been passed without issuing show cause notice and

without opportunity of hearing to the petitioner.

He submits that the person appearing at serial no.6 had earlier come before this Court in CWJC No.23728 of 2013 and this Court in consideration of the admitted circumstances where the impugned order has been passed without issuing any show cause and without opportunity of hearing to the person concerned, was pleased to set aside the order in so far as it related to the said petitioner while reserving liberty for the authorities to proceed afresh but in accordance with law.

Learned counsel for the parties are thus in agreement that the issues raised are covered under the judgment and order dated 11.7.2014 passed in CWJC No.23728 of 2013 (Dr. Chandrabhanu Singh vs. The State of Bihar). The operative portion of the judgment passed in the case of **Dr. Chandrabhanu Singh** (supra) runs as follows:

“Any order which has civil consequences and affects the right of parties, requires adherence to the principles of natural justice. In the present case it is manifest that an inspection was conducted by the Principal Secretary, Health Department, Government of Bihar, Patna and during which course he detected that some of the ultra sound centres were being run in contravention of the statutory requirements and it is in the light of the direction issued by the Principal Secretary that the impugned order has been passed. The order neither reflects whether the copy of the inspection report was afforded to the petitioner nor does it reflect whether any opportunity was provided to him to explain his defence. The order clearly violates the principles of

natural justice and thus cannot be sustained.”

Having heard learned counsel for the parties and considering the admitted circumstances where the order impugned has been passed without notice and without giving opportunity of hearing to the petitioner who has not even been given a copy of the inspection report which is the foundation for the impugned order, in view of the legal position settled by this Court in the case of **Dr. Chandrabhanu Singh** (supra) the order impugned bearing Memo no. 749 dated 1.6.2013 in so far as it relates to the petitioner appearing at serial no.1 cannot be upheld and is accordingly set aside. As a consequence the licence of the petitioner stands restored and he can apply for renewal thereof in accordance with law.

This order would, however, not preclude the Civil Surgeon –cum- Chief Medical Officer, Siwan to proceed afresh but in accordance with law.

This writ petition is allowed with the direction/observation aforementioned.

(Jyoti Saran, J)

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Transmission Date	