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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.4275 of 2017

and

W.M.P(MD) Nos.3423 and 3424 of 2017

Dr.M.Vijayalakshmi

: Petitioner

Vs.

The Joint Director of Health Services,
Madurai at Usilampatti,
Madurai.

: Respondent

Prayer : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus forbearing the respondent herein from proceeding against the petitioner pursuant to his proceedings Na.Ka.No.4277/Pa & Ko/2016 dated 07.12.2016 and consequently directing the respondent to return back the machineries and registers seized from the petitioner's premises on 08.11.2016 without any further delay to enable the petitioner to run Saranya Scan Centre as per the Certificate of Registration valid upto 05.01.2010.

For Petitioner

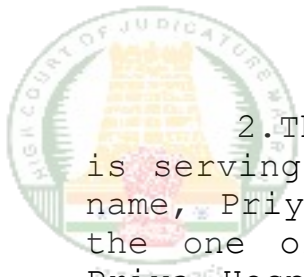
: Mr.Veerakathiravan
Senior Counsel for
M/s Veera Associates

For Respondent

:Mr.M.Alagadevan
Special Government Pleader

O R D E R

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus forbearing the respondent from proceeding against the petitioner pursuant to his proceedings Na.Ka.No.4277/Pa & Ko/2016 dated 07.12.2016 and for consequential direction to the respondent to return back the machineries and registers seized from the petitioner's premises on 08.11.2016 without any further delay to enable the petitioner to run Saranya Scan Centre as per the Certificate of Registration valid upto



2. The petitioner is a retired Government Doctor and now she is serving as a private Medical Practitioner owning a hospital by name, Priya Hospital at Thirumangalam, Madurai District. She is the one of the leading practitioners in Gynecology. The said Priya Hospital has a separate scan unit in the name of Saranya Scan Centre facilitated with Colour Doppler Ultrasound Scanner System for the pregnant, to diagnose and to scan the health. The said Scan Centre is a duly registered Scanning Centre under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994 (hereinafter referred as the "Act"). The said scan centre has been issued with a certificate of registration and the same is valid upto 05.01.2020. While so, an inspection was made by the District Level Authorities on 08.11.2016 at 10.15 a.m and seized a scanning machine, case note books from 01.12.2015 to 21.06.2016 and 23.06.2016 to 06.11.2016, MTP Register from January 2014 to November 2016 and Nominal Register from 04.11.2014 to 04.11.2016. The authorities also seized Form - F register and Form - B attached to the said scan centre. Pursuant to the inspection, a show cause notice was issued by the respondent on 07.12.2016. As per the show cause notice, the hospital management has not followed the procedure contemplated under the said Act and there was no proper maintenance of the records and also certain irregularities noticed in the maintenance of records. The petitioner was directed to give his explanation within three days on receipt of the show cause notice. In response to the above said show cause notice, the petitioner has given his representation on 12.12.2016. While matter stood thus, without waiting for any decision to be taken by the respondent on the explanation offered by the petitioner on the present show cause notice issued by the respondent, the petitioner has chosen to file the present writ petition under Article 226 of the Constitution of India to challenge the said show cause notice dated 07.12.2016 and for consequential prayer of return of the seized machinery items.

3. Mr. Veerakathiravan, learned Senior Counsel appearing for the petitioner would contend that the direction initiated by the respondent is illegal and cannot be countenanced in law. According to the learned Senior Counsel, the show cause notice does not make out any offence alleged to have committed by the petitioner and hence, the show cause notice calls for interference.

4. I have considered the submissions made by the learned Senior Counsel appearing for the petitioner and also perused the materials available on records.

5. The impugned proceedings of the respondent is only a show cause notice issued to the petitioner and in response to the same, the petitioner has also rightly offered his explanation. While the final decision to be taken on the show cause notice is



pending, it is not open to the petitioner to rush to this Court to challenge the show cause notice. The power of the jurisdiction of the authority to issue show cause notice is not in question. In such circumstances, the present writ petition is rather premature and cannot be entertained.

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6. Accordingly, this Writ Petition fails and the same is dismissed. It is always open to the petitioner to approach the authority concerned. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(AD II)

/True Copy/

Sub Assistant Registrar

To

The Joint Director of Health Services,
Madurai at Usilampatti,
Madurai.
+1cc to M/S Veera Associates, Advocate, SR.14578

W.P. (MD) No.4275 of 2017
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SKN
KK-SVMMS-28.03.2017-3P-3C