

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 13806 OF 2016****M H Saboo Siddique Maternity and
General Hospital & Anr.****..... Petitioners****VERSUS****The Medical Officer Health,
B-Ward & Ors.****..... Respondents**

Mr.P.K.Dhakephalkar, Senior Advocate, a/w. Ms.Simeen Shaikh,
Ms.Priyanka Gharge, i/b. M/s.S.K.Srivastav & Co. for the Petitioners.

Mr.R.A.Thorat, Senior Advocate, a/w. Mr.Pradeep M.Patil, i/b.
Mr.J.J.Xavier for the Respondent no.1.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos.2 and 3.

CORAM : R.D. DHANUKA, J.**DATE : 2nd APRIL, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 29th September, 2016 passed by the State Appropriate Authority dismissing the Appeal No.122 of 2016 filed by the petitioners. The said appeal was filed under Rule 19(2) of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Rules 1996 against the order passed by the Medical Officer of Health, B Ward rejecting the application of renewal of the registration of the sonography centre filed by the petitioners.

2. Admittedly the application for renewal of registration as per Rule 8 of the said Act was not made before expiry of the period of registration. The Appropriate Authority has rejected the appeal mainly on the ground that there was no provision for condonation of delay in filing application for renewal of registration.

3. After considering application filed by the petitioners and the impugned order passed by the State Appropriate Authority on 29th September, 2016, in my view the delay in filing application for renewal of registration ought to have been condoned in view of the fact that the petitioners had made out a sufficient cause for condonation of delay in filing an application for renewal.

4. It is made clear that this court has not gone into the legal issue raised by the respondents before this court that the provisions of the said Act does not provide for condonation of delay in filing an application for renewal of the registration. It is made clear that this order shall not be used as a precedent in any other matter. The petitioners have already suffered for last two years in view of the refusal on the part of the respondents to renew the registration of the petitioners for running sonography centre. It is also made clear that this court has not expressed any views on the merit as to whether the petitioners are otherwise entitled to apply for renewal of the registration and more particularly inspite of pendency of the criminal case against the petitioners before Metropolitan Magistrate Shindewadi Dadar, Mumbai being CC NO.41000061/2016.

5. The respondent no.1 is accordingly directed to reconsider the application of the petitioners for renewal of the registration on its own merits without considering the issue that the said application was not made within the time described under the provisions of the Act. The said application shall be considered within four weeks from today. The impugned order passed by the State Appropriate Authority is substituted by this order.

6. The parties to act on the authenticated copy of this order.

7. Writ petition is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]