

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No. 8553 of 2018

ORDER:-

The Order passed by the 3rd respondent vide proceedings in Rc.No.DM&HO/1798/2017, dated 30.11.2017, rejecting the application of the petitioner herein for permission to open Athena Ultra Sound Scanning Centre is under challenge in the present Writ Petition.

A preliminary objection with regard to the maintainability of the Writ Petition is taken by contending that according to Rule 19 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, the order under challenge in the Writ Petition is appealable and without availing the same, the present Writ Petition is filed. Rule 19 of the said Rules reads as under:-

“Appeal:- (1) Anybody aggrieved by the decision of the Appropriate Authority at sub-district level may appeal to the Appropriate Authority at district level within 30 days of the order of the sub-district level Appropriate Authority.

(2) Anybody aggrieved by the decision of the Appropriate Authority at district level may appeal to the Appropriate Authority at State/UT level within 30 days of the order of the district level Appropriate Authority.

(3) Each appeal shall be disposed of by the District Appropriate Authority or by the State/Union Territory Appropriate Authority, as the case may be, within 60 days of its receipt.

(4) If an appeal is not made within the time as prescribed under sub-rule (1), (2) or (3), the

Appropriate Authority under that sub-rule may condone the delay in case he/she is satisfied that appellant was prevented for sufficient cause from making such appeal.”

A reading of the above said provision of law makes it clear that anybody aggrieved by the decision of the Appropriate Authority at district level may appeal to the Appropriate Authority at State level within 30 days of the order of the district level Appropriate Authority. It is also clear from the above provision of law that the application for condonation of delay is also maintainable under sub-rule (4) of Rule 19 of the above Rules. In view of the above, this Court is not inclined to go into the merits of the Writ Petition.

In view of the provision of law, the Writ Petition stands disposed of, giving liberty to the petitioner to avail the above statutory remedy.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date: 15.03.2018
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