

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 7647 of 2018
Date of Decision: 27.3.2018**

Bourn Hall International India Pvt. Ltd.

.....Petitioner

v.

State of Haryana and another

.....Respondents

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate, for the petitioner

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed against the order dated 19.3.2018 passed by the District Appropriate Authority/Civil Surgeon, Gurugram, by which the operation of Ultrasound Centre, run by the petitioner, has been suspended.

The petitioner was served with a show cause notice dated 12.1.2018, followed by another show cause notice dated 29.1.2018, to which the petitioner has allegedly filed the reply(s). Before any adverse order could have been passed, the petitioner had approached this Court by way of a writ petition bearing CWP No. 6352 of 2018, which was, however, withdrawn on 14.3.2018 because at that time, it was observed that the petitioner has approached this Court at a pre mature stage but liberty was given to the petitioner to approach the Court as and when any adverse order is passed. This petition is filed after the adverse order was passed against the petitioner on 19.3.2018.

Learned counsel for the petitioner has vehemently argued that Section 20 (2) of the Pre Conception and Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short 'the Act') statutorily

provides an opportunity of hearing before any adverse order is passed by the District Appropriate Authority. Besides the other issues being raised, learned counsel for the petitioner has argued that since opportunity of hearing was not granted, therefore, the impugned order is illegal. Learned counsel for the petitioner is also candid enough to admit that the impugned order is open to appeal in terms of Section 21 of the Act. However, it is submitted that the remedy of appeal has not been availed and extraordinary jurisdiction of this Court under Article 226 of the Constitution of India has been invoked because of non compliance of the principle of natural justice.

After hearing learned counsel for the petitioner, I am of the considered opinion that the petitioner should avail the remedy of statutory appeal at the first instance. Therefore, this petition is disposed of with liberty to the petitioner to file the appeal in terms of Section 21 of the Act.

Learned counsel for the petitioner has submitted that he would file the appeal within three days after obtaining the order of this Court but the Appellate Authority may also be directed to decide the same as expeditiously as possible.

Accordingly, it is directed that in case the appeal is filed within three days from the date of passing of this order, the Appellate Authority shall decide the same within a period of one week after giving short dates, if necessary.

(RAKESH KUMAR JAIN)
JUDGE

27.3.2018

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No