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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment pronounced on: 09.02.2018

+ W.P.(C)No.612/2018 & CM No.2685/2018

M/S DR. RANDHAWA ULTRASONOGRAPHY IMAGING
AND RESEARCH INSTITUTE (THROUGH DR J S
RANDHAWA) AND ANR. Petitioners

Through : Mr. Khowaja Siddiqui,
Mr. Ashwini Kumar and
Mr. Arup Sinha, Advs.

versus

UNION OF INDIA AND ORS. ... Respondents

Through : Mr. Sanjay Kumar, Adv. for
R-1.
Mr. Santosh Kumar Tripathi,
ASC, GNCTD for R-2 to 4.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

1. On the last date i.e., 22.1.2018, I had issued notice in the matter and zeroed down on the issue pertaining to jurisdiction of the authority which had passed the impugned order. The relevant aspects pertaining, *inter alia*, to jurisdiction as adverted to therein read as follows:

“This petition seeks to challenge the show-cause notice dated 22nd December, 2017 and suspension order of even date. The contention of the counsel for the

petitioner(s) is that both the show-cause notice and the impugned order has been issued by an authority which is not the appropriate authority. A perusal of the show-cause notice (Annexure-P1) reveals that it has been issued by the District Appropriate Authority, West District. Counsel for the petitioner has drawn my attention to the e-mail dated 30th November, 2016 whereby it was communicated to the petitioner that in his case the appropriate authority as from that date would be the South West District Authority. In support of this submission, learned counsel for the petitioner further contends that all requisite documentary filings have been made thereafter with the South West District.

Thus, the contention of the learned counsel for the petitioner(s) is that the entire proceeding is without jurisdiction. This apart, counsel for the petitioner says that the main charge against the petitioner is that it cannot run a training centre. According to the counsel for the petitioner there is no prohibition under the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 in running a centre for imparting training to Doctors in Ultrasonography/ Imaging. The petitioners counsel also refutes the observation made in the impugned order that Ultrasonography/ Imaging was being conducted on patients. It is his submission that the CCTV footage would show that this observation is factually wrong. The counsel says that the concerned authorities during the course of the raid carried out at the petitioners premises took away the CCTV camera, its footage as well as the DVRs.”

2. Notice in this petition was accepted by Mr. Santosh Kumar Tripathi, on behalf of respondent nos.2 to 4.

2.1 Today, on return of notice a status report has been filed on behalf of the respondents.

2.2 The broad defence that has been taken by the respondents is that the District Appropriate Authority (West District) (hereafter referred to “West District Authority”) had the necessary jurisdiction to take cognizance of the report submitted by the inspection team, and thereafter, pass the impugned order. The status report avers that the inspection team had three constituents: National Inspection and Monitoring Committee; State Inspection and Monitoring Committee; and the District Inspection and Monitoring Committee.

2.3 It is further averred that the inspection team was constituted on 21.12.2017. In the status report, reference has been made in paragraph 5 to the discrepancies found by the inspection team at the Pre-Conception and Pre-natal Diagnostic Techniques Centre (in short “Centre”) run by the petitioners.

2.4 In support of the contention that the appropriate authority qua the petitioners was the West District Authority, a photocopy of the download from District Delhi website has been appended to the writ petition as Annexure-1. Based on this download, it is submitted that the petitioners centre is situate in “Choti Sabji Mandi”, which falls within the jurisdiction of the West District Authority.

3. As noted in the order dated 22.01.2018, the contention of the petitioners is that they were at the given point in time when the inspection was conducted under the jurisdiction of the South-West District Authority and not West-District Authority.

3.1 In other words, according to the petitioners, the appropriate authority which could have passed the impugned order was the South-West District Authority. In support of this contention, learned counsel for the petitioners has relied upon the provisions of Section 17 of the Pre-Conception and Pre-natal Diagnostic Techniques Act, 1994 (in short “the Act”) to contend that the consecration of an authority as the appropriate authority is a solemn act which requires issuance of a notification, followed by identification of centres/ entities over which they hold sway.

4. Learned counsel for the petitioners, thus, relies upon the list of centres, which included the petitioners’ centre that were transferred from West District to South-West District. Based on the said list, the petitioners contend their centre falls under the jurisdiction South-West District Authority.

4.1 Furthermore, as noted in the order dated 22.1.2018, the petitioners also rely upon an e-mail dated 30.11.2016 in support of their contention, that insofar as the petitioners centre was concerned, it was transferred from West District to South-West District by the respondent No.2 to 4 under intimation to them.

4.2 Furthermore, learned counsel for the petitioners submits that consistent with this intimation, all statutory filings were made with the CDMO (South-West District); the documents so filed are appended at pages 291 to 444.

5. It is the contention of learned counsel for the petitioners that after 30.11.2016, no filing has been made with the West District Authority. Furthermore, it is contended that at no point of

time did the respondents ever object that statutory filings were being made with the wrong District Authority and that, instead, the filings had to be made with the West District Authority.

6. I have asked Mr. Tripathi, learned counsel for the respondent nos.2 to 4 as to whether there was any dispute with regard to the communication sent to the petitioners via e-mail dated 30.11.2016 or with regard to the list of centres appended to the writ petition, which was indicative of the fact that amongst others the petitioners centre was also transferred from West District to the South-West District.

6.1 Mr. Tripathi says that there is no such specific denial and/or stand taken in the status report.

6.2 Learned counsel, though, vehemently submits that the appropriate authority for the petitioners is the West District Authority.

7. I have heard learned counsels for the parties and perused the record. It is obvious that even though the petitioners did file a reply dated 5.1.2018 to show cause notice dated 22.12.2017, the objection taken vis-a-vis jurisdiction has not been decided as yet. As a matter of fact, on the very same day, as noticed above, the impugned order was passed (i.e., on 22.12.2017) suspending with immediate effect in public interest the activity carried out at the centre.

8. To my mind, the appropriate authority cannot confer upon itself jurisdiction which is not vested in it. Each District Authority has been vested with jurisdiction over a particular geographical area.

Furthermore, it appears that centres over which a particular District Authority has sway and/or jurisdiction stand identified by respondent nos.2 to 4. The petitioners were, in fact, clearly informed that the appropriate authority in respect of their centre would be the South-West District Authority.

9. In these circumstances, it is clear that unless there was a formal reversal of this position with an intimation to the petitioners that the appropriate authority qua their centre would be the West District Authority, the impugned order could not have been passed by the said authority. This position to my mind would obtain notwithstanding the fact that an inspection was conducted and the material so generated was furnished to the West District Authority to act on it in accordance with the provisions of the Act.

10. In these circumstances, the West District Authority is directed to immediately decide upon the objection contained in the reply dated 5.1.2018 filed by the petitioners with respect to its jurisdiction in the matter to take cognizance of the material filed before it by the inspection team.

11. In case, it comes to the conclusion that it is not the appropriate authority, it will recall the impugned order and transmit the inspection report to the South-West District Authority for passing an order on merits.

12. Needless to say that since the activities at the centre of the petitioners have been in limbo since 22.12.2017, the West District Authority will do the needful within three days of receipt of the copy of this order. The parties will, thus, appear for this purpose

before the West District Authority, on 13.2.2018 at 11:00 am.

13. This writ petition as well as pending application is disposed of in the aforesaid terms.

14. *Dasti* to the parties under signatures of the Court Master.

RAJIV SHAKDHER, J

FEBRUARY 09, 2018

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