

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1499 of 2012**

1. Dr. R.K.Diwakar S/o Late Shri K.C. Diwakar aged about 62 Years Vardhman Sonography, 22 Shastri Market, Nandini Road, Power House, Bhilai Distt. Durg, Chhattisgarh
2. Dr. Gopal Dewangan S/o Lt. B.L. Dewangan aged about 51 Years Radiologist, Durg Diagnostics, Opposite New Bus Stand, G.E. Road, Distt. Durg C.G.
3. Dr. SK Agrawal S/o R.C. Agrawal aged about 49 Years Dr. Agrawal Nursing, Home, Shankar Nagar, Distt. Durg C.G.
4. Dr. Dipti Kothari S/o Dr. S.M. Kothari, aged about 28 Years Radiologist, Priyanka Hospital, Oppo. Distt. Hospital, Distt. Durg C.G.
5. Dr. G. Kotadia, S/o Lt. L.C. Kotadia aged about 62 Years Radiologist, Dr. Kotadia X-Ray And Sonography Clinic, Kailash Nagar, New Bus Stand, Distt. Rajnandgaon C.G.
6. Dr. Mrs. Vandana Gupta S/o Dr. D.K. Gupta aged about 58 Years Gupta Nursing Home, Mohan Nagar, Distt. Durg C.G.
7. Dr. R.Pandey S/o Lt. N.M. Pandey aged about 57 Years Dr. Pandey Nursing Home, Station Road, Distt. Durg C.G.
8. Dr. Naveen Bafna S/o Chandan Diagnostic Centre aged about 30 Years Besement Priyanka Complex, Distt. Durg C.G.
9. Dr. Mrs. V. Wakodkar W/o Dr. T.D. Wakodkar aged about 60 Years Dr. Wakodkar, IVR Centre, Main Road, Nehru Nagar W,, Bhilai Distt-Durg C.G.
10. Dr. Sandhya Nagariya, W/o Rajesh Nagariya, aged about 50 years, Manglam Nursing Home, Dixit Lodge Road, District Durg C.G.
11. Dr. Sriranjjan Rao S/o M.S. Krishn Rao aged about 37 Years Radiologist, Head, Deptt. Of Radiodiagnosis And Imaging, Cm Hospital Nehru Nagar Chowk, Ge Road, Bhilai C.G.
12. Dr. Manoj Anand S/o Dr. Anand Ram aged about 48 Years A-14, Nandini Road, Bhilai X-Ray Sonography Centre, Power House, Bhilai C.G.
13. Dr. R.C. Gulati S/o Lt. K Gulati aged about 72 Years Owner, Gulati Nursing Home, Durg C.G.
14. Dr. B.N. Dewangan S/o K.N. Dewangan aged about 52 Years Radiologist Shree Mahaveer Kailash Sonography, Gurudwara, Station Road, Durg C.G.
15. Dr. NP P Jangade S/o S.R. Jangade aged about 54 Years Radiologist, Adarsh Government School Utai Road, Durg C.G.
16. Dr. Vargese Abraham S/o P.V. Abhraham aged about 56 Years Dr. Abraham Sonography Centre, Venkateshwar Talkies, North Gangotri, GE Road Bhilai, Distt. Durg C.G.
17. Dr. Manoj Sinha S/o B.P. Sinha aged about 42 Years Owner Usq Machine, Dr. Sinha Nursing Home, Supela Chowk, Bhilai, Ditt. Durg C.G.
18. Dr. Lal Mohammad S/o Abdul Rehman aged about 54 Years Owner USG Machine, 7/7 Priyadarshini Esat, Bhilai, Distt. Durg C.G.
19. Dr. AK Sahu S/o R.R. Sahu aged about 53 Years Radiologist, Paanch Building, Government Quarters, Jail Road, Durg C.G.

20. Dr. K.D. Tiwari S/o Lt. R.K. Tiwari aged about 57 Years Kalyani Nursing Home, Dixit Lodge, Durg C.G.

21. Dr. R.P. Agrawal S/o LN Agrawal aged about 75 Years Lt. L.N. Agrawal, Owner, Nursing Home, Dhamdha C.G.

22. Dr. A.K. Agrawal S/o Radheyshyam Agrawal aged about 47 Years Amrit Kailash Nursing Home, Bypass Road Near Kadambari Nagar, Durg C.G.

-----Petitioners

VERSUS

1. Union of India through the Secretary Ministry of Health and Family Welfare, Department of Health and Family Welfare, New Delhi
2. State of Chhattisgarh, through Secretary, Department of Health & Family Welfare, Mantralaya, DKS Bhawan, Raipur C.G.
3. Director, Directorate Health Services, Mantralaya Parisar, Old Nurses Hostel Bhawan, Raipur C.G.
4. Chief Medical and Health Officer, District Durg, C.G.
5. Medical Council of India, through its Director Pocket No. 14, Sector-8, Dwarka Phase-3, New Delhi, 110077

-----Respondents

For Petitioners	:	Mr. Pankaj Singh, Advocate on behalf of Mr. Pawan Kesharwani, Advocate
For Respondents-State	:	Mr. Ghanshyam Patel, Dy. G.A.
For Respondent-UOI	:	Mr. Krishna Gopal Yadav, Advocate on behalf of Mr. B.Gopa Kumar, Assistant Solicitor General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, CJ.

26/02/2020

1. The petitioners have moved this Court with the following prayers:

“10.1 That the Hon'ble Court may be pleased to allow the petition and may be pleased to issue appropriate order/ writ to quash the provision 3(3)(3) incorporated in Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 vide Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Amendment Rules, 2012 notified in the official gazette on June 04, 2012 (Annexure P-1).

10.2 That the Hon'ble Court may further be pleased quash the consequential order dated July 07, 2012 (Annexure P-2).

10.3 The Hon'ble Court may be pleased to pass any other order as it may deem fit in the interest of justice.”

2. Heard Mr. Pankaj Singh, learned counsel on behalf of Mr. Pawan Kesharwani, Advocate appearing for the petitioner as well as Mr. Ghanshyam Patel, learned State counsel.
3. When the matter is taken up for consideration, it is submitted by the learned counsel appearing for the petitioners that the issue projected before this Court is already pending consideration before the Apex court as SLP(C) No. 016657-016659/2016. It is also pointed out that pursuant to filing necessary petition before the Supreme Court, the cases which are pending in various Courts involving similar issue have been transferred and they are still pending.
4. In the above circumstances, this Court is of the view that there need not be parallel adjudication. Once the issue is decided by the Apex Court, that will cover the issue projected in the present writ petition as well.
5. Accordingly, the writ petition is closed. The fate of the prayers raised by the petitioners will be subject to the outcome of the matter which is stated as pending before the Apex Court. It is open for the petitioners to pursue the matter, if there is any subsisting/residual grievance, by way of appropriate proceedings in accordance with law.
6. The writ petition is disposed of accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge