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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.NO.1201 OF 2021
AND
C.M.P.NO.7643 OF 2021

Dr.L.Ravichandran

... Appellant/Petitioner

.Vs.

1. The Director of Medical and
Rural Health Services,
Teynampet,
Chennai - 600 006.

2. The Joint Director of Medical and
Rural Health Services,
Kuppur - Post,
Dharmapuri - 636 704.

... Respondents/Respondents

PRAYER:-

Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 12.08.2020 passed by this Court in W.P.No.9146 of 2020 and allow the Writ Petition as prayed for.

PRAYER IN W.P.NO.9146 OF 2020:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the Show Cause Notice dated vide REF.No.7497/E5/2018, dated 03.01.2019 issued by the 2nd Respondent and quash the same and consequently direct the respondents to de-seal the scan centre of the Petitioner at Dhanam Hospital, 6/153 (1) Bye-Pass Road, Palacode - 636 808, Dharmapuri District and permit the Petitioner to operate the same.



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For Appellant : Mr.S.Thangavel

For Respondents : Mr.K.V.SajeewKumar
Government Counsel

J U D G M E N T

(Judgment of the Court was delivered by R.VIJAYAKUMAR,J)

This Writ Appeal is directed against the order of the learned Single Judge dated 12.08.2020 in W.P.No.9146 of 2020, in directing the Second Appellant to consider the reply filed by the Appellant/Writ Petitioner and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to the Appellant/Writ Petitioner.

2. The Appellant herein has filed the Writ Petition No. 9146 of 2020 to quash the show cause notice issued by the Second Respondent in the Writ Petition.

3. The Appellant herein was running a Scan Centre in Palacode, Dharmapuri District. An inspection was conducted by the Second Respondent on 06.07.2018 and some documents were seized on the said date from the Scan Centre. Further, another inspection was conducted on 27.11.2018 by the State Level appropriate authorities and thereafter Show Cause Notice was issued on 03.01.2019 to the Appellant/Writ Petitioner stating that he had violated the terms of The Pre-Conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection Act, 1994) (in short 'the Act') and called for explanation from him in this regard. As against the same, the Writ Petition has been filed challenging the jurisdiction of the Second Respondent to issue such Show Cause Notice.

4. The learned Single Judge has dismissed the Writ Petition holding that it is only a Show Cause notice, for which the Petitioner can give suitable reply to the Respondents. As it was stated that the Writ Petitioner has already given a reply to the said Show Cause Notice, a direction was issued to the Second Respondent to consider the reply filed by the Appellant/Writ Petitioner and pass orders on merits and in accordance with law, after giving due opportunity of hearing to the Appellant/Writ Petitioner within a period of four weeks from the date of receipt of a copy of that order. The said order is under challenge in this Writ Appeal.

5. We have heard the counsel appearing for the Appellant and the learned Government Advocate appearing for the Respondents.



6. During the submissions, the learned Government Advocate pointed out the G.O.Ms.No.308, Health and Family Welfare (R1) Department dated 24.12.2013 under which the Joint Director of Health Services of each District of the State has been notified as the appropriate authority under Section 17 of Act. Hence the contention of the Appellant/Writ Petitioner that the Second Respondent has no jurisdiction to issue the Show Cause notice is without any merits.

7. The learned counsel appearing for the Appellant/Writ Petitioner has submitted across the bar that no inspection has been done on 27.11.2018, as stated in the Show Cause Notice, by the authorities who are competent under the Act.

8. The contentions raised by the Appellant can only be the subject matter of the reply to the Show Cause Notice. Hence we are not inclined to interfere with the order of the learned Single Judge.

9. In such view of the matter, the Writ Appeal stands dismissed. However, liberty is given to the Appellant/Writ Petitioner to file additional reply to the impugned Show Cause Notice within a period of two weeks from the date of receipt of the copy of the order and the enquiry shall be completed within the period of four weeks thereafter. The Appellant/Writ Petitioner is directed to co-operate with the enquiry by producing the statutory records that have to be maintained under the Act. Further, the Appellant/Writ Petitioner should not stall the proceedings in the interregnum and it is open to him to question, after the final decision is taken by the Authority concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arr/shk

To

1. The Director of Medical and
Rural Health Services,
Teynampet,
Chennai - 600 006.



2. The Joint Director of Medical and
Rural Health Services,
Kuppur - Post,
Dharmapuri - 637 704.

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+1cc to Mr.S.Thangavel, Advocate, S.R.No.55344
+1cc to the Government Pleader, S.R.No.56232

W.A.NO.1201 OF 2021

MG (CO)
PBS/30/11/2021