



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.18585 of 2021
and
W.M.P(MD).No.15330 of 2021

S.Dheivanayahi

... Petitioner

Vs.

The Sub District Appropriate Authority,
PCPNDT Act, 1994, and the Medical Officer,
Paramakudi Division,
Government Hospital, Paramakudi,
Ramanathapuram District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order made by the respondent in his proceedings in Ref.No.1786/P&D/2021 dated 22.09.2021 and quash the same as illegal.

For Petitioner	: Mr.M.Mahaboob Athiff
For Respondent	: Mr.P.Subbaraj
	Counsel for State

ORDER

The petitioner assails an order dated 22.09.2021 of the Sub District Appropriate Authority under the Pre-Natal Diagnostics Techniques (Prohibition of Sex Selection) Act, 1994 (Act 57 of 1994).

2.The petitioner states that she is the proprietrix of a scan centre named Paramakudi Scan and Research Centre. The said centre was established in the year 1990 and was registered under Section 19 of Act 57 of 1994. Such registration was for operating an ultrasound clinic/scan centre for carrying on ultrasonography as per the Act. The registration was renewed from time to time and the last renewal was for the period from 01.08.2019 to 02.08.2024.

3.According to the petitioner, the Appropriate Authority under Act 57 of 1994 is the authority which granted the registration to the petitioner. Such authority is the Joint Director and District Appropriate Authority. By drawing reference to the impugned order,



the petitioner contends that the said order has been issued by a person who does not qualify as the Appropriate Authority under Act 57 of 1994. In addition, the petitioner points out that the said impugned order is contrary to Section 20 of Act 57 of 1994. In particular, the petitioner points out that Section 20 sub-sections 1 and 2 enable the Appropriate Authority to either suspend or cancel the registration of a counselling or scanning centre after providing a reasonable opportunity. Although sub-section 3 enables suspension without issuing notice under sub-section 1, the petitioner contends that such action cannot be taken once a finding is recorded that there was violation of the provisions of Act 57 of 1994. By referring to the last paragraph at page 1 of the impugned order which continues to page 2 thereof, the petitioner contends that there is a finding that the petitioner violated Section 29 of Act 57 of 1994. Once such finding is recorded, it is contended that a reasonable opportunity is mandatory.

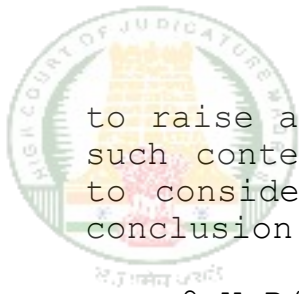
4.Mr.P.Subbaraj, learned counsel for the State, accepts notice for the sole respondent.

5.Upon perusal of the impugned order, it is evident that such order was issued by the Sub District Appropriate Authority. Section 17 of Act 57 of 1994 enables the appointment of Appropriate Authorities by the State Government. From the documents on record, it is not possible to conclude as to whether the Sub District Appropriate Authority, who issued the impugned order, is a duly appointed Appropriate Authority under Section 17. For the purposes of the present proceeding, it is not necessary to record a conclusive finding in such regard.

6.The impugned order has been issued under Section 20(3) of Act 57 of 1994. The said provision enables suspension of registration without issuing notice if the Appropriate Authority is of the opinion that it is necessary and expedient to do so in the public interest. The impugned order cannot be considered as *ex facie* beyond the scope of Section 20(3) of Act 57 of 1994.

7.At the same time, the suspension of the registration puts the petitioner out of business until the issue is decided one way or the other. Therefore, it is just and necessary that any inquiry in respect of the alleged violation of Act 57 of 1994 should be concluded expeditiously. To that extent, the petitioner is entitled to relief.

8.Accordingly, the respondent herein is directed to proceed with the inquiry pursuant to the impugned communication by providing a reasonable opportunity to the petitioner, including a personal hearing. Such inquiry shall be concluded within a period of two (2) months from the date of receipt of a copy of this order. Since no conclusive findings have been recorded in respect of the contentions raised by the petitioner herein, it will be open to the petitioner



to raise all these contentions before the appropriate authority. If such contentions are raised, the Appropriate Authority is directed to consider all these contentions and issue a reasoned order upon conclusion of such inquiry.

9.W.P(MD).No.18585 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD).No.15330 of 2021 is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sn/sji

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub District Appropriate Authority,
PCPNDT Act, 1994, and the Medical Officer,
Paramakudi Division, Government Hospital, Paramakudi,
Ramanathapuram District

+1 CC to M/s.SPL.GP (SR-31976[F] dated 11/10/2021)

W.P(MD).No.18585 of 2021
and

W.M.P(MD).No.15330 of 2021

08.10.2021

SS(CO)

KB(21.10.2021) 3P 3C