

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7780 of 2022

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Mithlesh Kumar Pandey Son of Late Mukdeo Pandey Resident of Village-
Gandhi Maidan, Siwan, P.S.- Town Siwan, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Chief Director, Health Services, Govt. of Bihar, Patna.
4. The Executive Director, State Health Committee, Bihar, Patna.
5. The Collector, District- Siwan.
6. The Additional Collector, District- Siwan.
7. The Civil Surgeon cum the Chief Medical Officer, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raj Kumar Mishra, Advocate
For the Respondent/s : Mr.Nagendra Pd. Yadav (SC 23)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-08-2022

Petitioner has prayed for the following relief(s):-

“(a) For issuance of an appropriate writ in the nature of certiorari quashing and set aside the letter vide Memo No. 943 dated 30.04.2022 issued by the learned Civil Surgeon Cum the Chief Medical Officer, Siwan whereby and whereunder Radhika Ultra Sound Centre has been closed and sealed.

(b) A writ in the nature of Mandamus or any other appropriate writ



directing the respondents to not take any coercive step against the above Ultra Sound Centre as well as the petitioner and stop the operation of the letter vide Memo No. 943 dated 30.04.2022 till the disposal of this writ petition.

(c) Any other appropriate writ order or direction as your Lordship may deem fit and proper.”

It is not in dispute that proceedings in contemplation of Section 20 of the Pre-natal Diagnostic Technology (Regulation and Prevention of Misuse) Act, 1994 (hereinafter referred to as the Act) are pending consideration with the authorities post issuance of notice dated 30th of April, 2022 (Annexure-2, page-14) and 4th of May, 2022 (Annexure-2/1, page- 15).

Undisputedly, the petitioner’s premises were inspected and post inspection sealed vide order dated 30th of April, 2022 itself.

We notice that Rule-12 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996 provides for mechanism for search and seizure, including sealing of the premises which, obviously, has to be as a consequence of breach of the terms of the licence and/or Statute or the Rules framed thereunder.

In the instant case, it is pointed out that the order of



sealing does not assign any reasons.

Well, to some extent it can be said that the order does not assign any specific reason, but however, it does use the expression that “On inspection, serious irregularities were found as per the annexures enclosed. What are those irregularities are annexed as part of the said document dated 30th of April, 2022 which, unfortunately, has not been placed before this Court.

Be that as it may, it is a matter of record that post sealing of the premises, fresh notice to show cause stands issued on 4th of May, 2022 and now the matter is pending with the authority.

In the attending facts and circumstances, we dispose of the present petition on the following mutually agreeable terms:

(a) Petitioner shall appear before the concerned respondent on 22.08.2022;

(b) Petitioner shall respond to the show cause notice dated 4th of May, 2022, if not already responded;

(c) It shall be open for the petitioner to place additional material on record, if so required and desired;

(d) Respondent authority shall, after affording reasonable opportunity of hearing, if so required and desired,



pass an order in terms of the enquiry contemplated under
Section 20 of the Act;

(e) Order assigning reasons shall be communicated
to the petitioner;

Also liberty reserved to the petitioner to take
recourse to such other remedies as are otherwise available in
accordance with law.

Interlocutory application, if any, shall also stand
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.08.2022
Transmission Date	

