

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10228 of 2023

Arvind Kumar Son of Sri Ram Tilak Prasad, Resident of village- Tilauthu,
P.S. - Tilauthu, District - Rohtas at Sasaram ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram.
5. The Incharge Medical Officer, Primary Health Centre, Tilauthu, District – Rohtas. ... Respondents

Appearance :

For the Petitioner : Mr.Babu Nandan Prasad, Adv.

For the Respondents : Mr.Birju Prasad, GP XIII with

M/s Ajit Anand & Shweta Anand, AC to GP XIII

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

6 18-04-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

I. To issue writ/ writs, order/orders, direction/ directions including a writ in the nature of certiorari for quashing the Memo No. 1560 dated 08.06.2023 passed by the Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram, whereby and whereunder he has been suspend the registration of the M/s Anjali Diagnostic Centre, Tilauthu and its Registration No. 80/2018 till further order (as contained in Annexure-3) without considering the facts and circumstances of the case of the petitioner in proper perspectives.

II. To issue a writ/ writs, order/ orders, direction/ directions including a writ in the nature of mandamus



directing the Respondents to unseal the M/s Anjali Diagnostic Centre in favour of the owner petitioner forthwith.

III. For grant any other relief or reliefs for which the petitioner may be found entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that the petitioner has established a Diagnostic Center under the name and style of M/s Anjali Diagnostic Centre, Tilauthu, Sasaram, in the year 2018 after taking due permission and registering the same with the competent authority. That the petitioner was issued necessary license and the same is subsisting till 03.05.2023. Learned counsel stated that a random inspection has taken place on 24.05.2023. The inspecting team found some minor violations. However, without giving any show cause notice to the petitioner the Diagnostic Center has been sealed. Learned counsel has stated that even going by the report of the inspecting team the allegations against the petitioner are very minor in nature and the same does not warrant the sealing of the Diagnostics Center. Further it is stated that till date no First Information Report (FIR) has been lodged against the petitioner nor any show cause notice issued to the petitioner, therefore, learned counsel seeks a direction



from this Hon'ble Court to direct the authorities to unseal the premises. Further, it is stated that petitioner has not violated the provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques, therefore, seeks a direction from this Hon'ble Court to set aside the Memo No. 1560 dated 08.06.2023.

4. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that the inspection team found that the petitioner has violated the provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques and duly taking into consideration the provisions of the said Act have sealed the premises of the petitioner. That the inspecting team found that there was no doctor present in the Diagnostic Center and basic amenities like drinking water and toilets were not available. That the Center was conducting scanning for Pre-Conception and Pre-Natal Diagnostic Techniques and the same admitted by one of the staff member, therefore, the inspecting team duly taking into consideration the above have sealed the premises. Further, it is stated that the license of the petitioner has expired on 03.05.2023 and, therefore, no relief can be passed at this stage. Learned counsel has, therefore, prayed this Hon'ble Court to



dismiss the present Writ Petition.

5. A perusal of the documents, more particularly, the inspection report filed by the authorities reveals that the inspecting team on 24.05.2023 has inspected the premises of the petitioner ad reported as under :

"अनुमण्डल स्तर पर दो कर्मियों को गोपनीय रूप से भ्रूण जाँच कराने के बहाने भेजा गया था। वहां उपस्थित कर्मी बादल कुमार द्वारा ₹0 2500.00 लेकर भ्रूण का लिंग का जानकारी देने की बात कही गयी, जिसके आधार पर अनुमण्डल स्तरीय टीम दल-बल के साथ अल्ट्रासाउण्ड केन्द्र पर पहुंचकर उक्त वर्णित बातों की संपुष्टि करते हुए अंचलाधिकारी, तिलौथू एवं प्रभारी चिकित्सा पदाधिकारी, तिलौथू के द्वारा केन्द्र को सील कर दिया गया है। साथ ही टेक्नीशियन विगत दस दिनों से अनुपस्थित पाया गया। निबंधन दिनांक 03.05. 2023 को समाप्त हो चुका है। नवीकरण हेतु दिनांक 20.03.2023 को असैनिक शख्य चिकित्सक-सह- मुख्य चिकित्सा पदाधिकारी, रोहतास (सासाराम) के कार्यालय को आवेदन दिया गया है।"

6. Further, it is to be noted that in the inspection report, dated 24.05.2023, as against column no. 7, it is stated that the drinking water is not available and in the remarks column it is written as "doctor was not present there and the Center is sealed under the provisions of the PNDT Act". It is pertinent to note that though the inspection was conducted on 24.05.2023, till date no First Information Report (FIR) has been lodged



against the petitioner nor any show cause notice issued to the petitioner. The authorities having sealed the premises ought to have taken further steps and issued a show cause notice to the petitioner if they had really found that the allegations against the petitioner were serious enough, except making some allegations, there is no proof of any wrong doing by the petitioner.

7. Though the petitioner has prayed for a direction to the authorities to unseal the premises, this Court is not inclined to pass the said order as the petitioner's license has already expired on 03.05.2023 unless and until the license of the petitioner is renewed no permission for opening or running the Diagnostic Center can be given at this stage. As it is stated by the counsel for the petitioner that the petitioner has already applied for renewal of the license and till date no decision has been taken by the authority concerned, this Court directs the authority to consider the renewal application made by the petitioner as expeditiously as possible preferably within a period of 8 weeks from the date of receipt of a copy of this order. It is needless to mention that the application for renewal shall be independently considered without taking into account the sealing of the unit. This order does not in manner preclude the the authorities from taking any further action if they are so



advised strictly in accordance with law.

8. With the above direction, the Writ Petition stands
disposed of.

(A. Abhishek Reddy , J)

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