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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 13646/2024, CM APPLs. 57100-57101/2024

CHHAITANYA DIAGNOSTICS PVT. LTD. AND ANR

.....Petitioners

Through: Mr. Varun Tyagi, Ms. Akshita, Mr. Bharat Gupta, Advocates

versus

DISTRICT APPROPRIATE AUTHORITY (PNDT ACT) DISTRICT MAGISTRATE (SOUTH DISTRICT)& ANR. .....Respondents

Through: Mr. Divyam Nandrajog, Panel Counsel for GNCTD with Mr. Fateh Singh Bhullar, Advocate for R-1.
Ms. Monika Arora, Mr. Subhradeep Saha, Ms. Radhika Kurdukar, Advocates for R-2
Ms. Monika Arora, CGSC with Ms. Rashi Mangal, GP for UOI

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 27.09.2024

1. The present petition impugns a show cause notice dated 16th August, 2024[1] issued by Respondent No.1 under Section 18 of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994.[2] According to Respondent No.1, the Petitioners have not registered the Positron Emission Tomography (PET) Scan[3] as required under the Act and are operating it without proper

[1] "Show cause notice"
[2] "the Act"
[3] "Pet Scan Machine"

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registration. The Petitioner has submitted a response to the said notice on 21st August, 2024, however, the show cause notice has not been finally adjudicated.

2. In view of the above, although the Petitioner has raised several objections to the Show cause notice itself, in the opinion of the Court, since the matter is only at the stage of Show cause notice, there is no reason to entertain the present petition. Instead, Respondent No.1 can be directed to decide the Show cause notice in a timebound manner. Although counsel for the Petitioner denies all the allegations contained in the show cause notice, however, the Court, at this juncture, is not commenting on any of the issues as the matter is still under consideration.

3. Counsel for Petitioner also makes a request that till the time the Show cause notice is adjudicated, the Petitioners should at least be allowed to carry out the repairs on Pet Scan machine and for this purpose, the machine may de-sealed and the Petitioners can give an undertaking to the Court that the machine will only be repaired and not used for other purpose. However, in the opinion of the Court, such a request cannot be entertained as the machine today is unregistered under the Act. Furthermore, the sealed Pet scan machine is also a piece of evidence found during the inspection conducted by an Inspection team authorized by Respondent No.1. Moreover, to allow the machine to be de-sealed and removed from a location where no one would have oversight—based solely on the Petitioner's undertaking—does not satisfy the Court to allow such a prayer. Accordingly, the request is declined.

4. Accordingly, the present petition is disposed of with a direction to Respondent No.1 to take a final view on the show cause notices in light of

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the response dated 21st August, 2024 submitted by Petitioners within a period of four weeks from today.

5. All rights and contentions of the parties are left open.

6. In the event, the decision taken by Respondent No.1 is adverse to the Petitioners' interest, they shall be free to avail the statutory remedies as available under the Act.

7. It must also be noted that the Petitioners had applied for license under Rule 6(2), 6(5) and 8(2) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, however, the said application has been rejected on the ground that the Show cause notice is pending against Petitioners.

8. Once the Show cause notice is adjudicated, the Petitioners shall be permitted to reapply for the registration which request shall then be considered afresh by the Respondents, in accordance with law.

SANJEEV NARULA, J

SEPTEMBER 27, 2024/ab

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