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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 12.12.2024***+ **W.P.(C) 5120/2017****M/S SHUSHILA HOSPITAL THROUGH ITS PROPRIETOR AJIT SINGH**

.....Petitioner

Through: Mr. Prasoon Kumar and Mr. Dushyant Choudhary, Advs.

versus

THE DISTRICT MAGISTRATE / DC (NORTH), DISTRICT APPROPRIATE AUTHORITY

.....Respondent

Through: Mr. Divyam Nandrajog, Panel Counsel with Ms. Sreeja Pal, Adv. for R-1 and 2.

Dr. Chandravir Singh Ved, PC PNDT, Nodal Officer, Distt. North

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. This Court had on 27.11.2024 after examining the matter, passed the following directions:

"3. The prayers in the present Petition reads as follows:

"(a) Pass a Writ of Certiorari or any other writ thereby declaring the order dated 06.07.2016, 06.09.2016 and order dated 18.04.2017 passed by respondents null and void and revive the license of the petitioner's hospital.

(b) Pass a direction for de-seal the two Ultrasound Machine Model : Digiscan 6918 with Sl. No. AJ0810103 and Medal U Scan D-G70 with Sl. No. 34580026.

(c) Set aside the order dated 06.12.2016 passed by the state appellate authority"

4. It is the grievance of the Petitioner that despite the fact that there was no evidence, action was taken against the Petitioner/Hospital. Pursuant to the orders passed by the Respondent, the Hospital of the Petitioner as well as the ultrasound machines were sealed by the Respondent.



4.1 Learned Counsel for the Petitioner further submits that despite the lapse of 8 years, no evidence has been placed on record before this Court with respect to the allegations in these notices. In addition, he submits that there was no FIR which has been lodged by the Respondent at that time.

4.2 Learned Counsel for the Petitioner submits that by the Impugned Order dated 06.07.2016, the registration of the Hospital of the Petitioner was suspended with immediate effect for a period of two months which was thereafter extended on 06.09.2016 for another two months. Subsequently, the cancellation order was issued by an appropriate authority on 18.04.2017 wherein the registration of the Hospital of the Petitioner was cancelled under the provisions of Section 20(2) of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 [hereinafter referred to as 'PCPNDT Act']. This cancellation order was the subject matter of challenge which challenge has also since been dismissed.

5. Learned Counsel for the Petitioner submits that his Hospital was closed on 06.07.2016, as is stated in that order. However, two FIRs were registered in 2017 based on complaints made, albeit after the Hospital premises were sealed.

6. Learned Counsel for the Petitioner draws the attention of the Court to an order dated 21.05.2019 wherein the following was recorded:

"2. The allegation against the petitioner is that one of the ultrasound machines located in the hospital had been used to determine the sex of a foetus of a decoy customer on 06.07.2016.

3. It is the petitioner's case that no ultra sound machine was used as the person authorized to operate the same has left the services of the petitioner, one month earlier. The petitioner contends that the allegations that the petitioner had not maintained the requisite records is not relevant since the machine had not been used as alleged. He further submits that a forensic examination of the machine was ordered, however, the said report has not been provided to the petitioner.

4. In view of the above, the respondent is directed to file a copy of the forensic report, if any, before the next date of hearing. The respondent shall also ensure that all original files of this case are brought before this Court on the next date of hearing."

[Emphasis supplied]

7. As can be seen above, on 21.05.2019, the Respondent was directed



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to file a copy of the forensic report and being the original files of this case. Thereafter, by an order dated 28.01.2020, the following directions were passed by a Coordinate Bench of this Court:

"During the course of the arguments the learned counsel for the respondent handed over the office file to draw the attention of this Court to FIR No. 0266 dated 14.07.2016 registered at Police Station kharkhoda, District Sonipat, Haryana to contend that on the same incident an FIR has been registered.

It is noted that in the FIR, the accused is one Shri Ram Diya. A perusal of the allegations made in the FIR would also show that the same are not matching with the allegations made in the Impugned Order against the petitioner. Prima facie there is some discrepancy in the two. The respondent shall consider the same and file an additional affidavit within a period of four weeks."

8. The forensic report has not been placed on record until today. It seems that the Respondent has not complied with orders which have been passed by this Court from time-to-time.

9. Learned Counsel for the Petitioner submits that he is suffering immensely. The registration of his Hospital has been cancelled and his business has come to a standstill. He further submits that the action was taken against him on the basis of a complaint received from Dr. Adarsh Sharma, Deputy Civil Surgeon, District Sonipat, Haryana. However, these complaints have also not been placed on record.

9.1 Learned Counsel for the Petitioner submits that he is willing to give an undertaking to the Court that he will not take any steps in violation of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994.

10. In view of what is stated above, learned Counsel for the Respondent requests for some time to take instructions."

2. The concerned officer, Dr. Chandravir Singh Ved, PC PNDD, Nodal Officer, District North is present in the Court today pursuant to the order dated 27.11.2024.

2.1 Mr. Ajit Singh, proprietor of the Petitioner is virtually present before the Court today and undertakes to this Court that he will not take any steps in violation of the Pre-Conception and Pre-Natal Diagnostic Techniques



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Act, 1994. The statement of the Petitioner is taken on record and the Petitioner is bound down by the said statement.

3. Given the statement above, the learned Counsel for the Respondent, on instructions, submits that the prayers in the present Petition can be granted, however, without prejudice to the proceedings pending before the learned Trial Court with respect to other complaints made against the Petitioner.

4. In view of what is stated above, the orders dated 06.07.2016, 06.09.2016 and 18.04.2017 passed by Respondent and the order dated 06.12.2016 passed by the Appellant Authority is set aside. The Respondent shall de-seal the two-ultrasound machines as well.

5. The Petition is accordingly disposed of.

TARA VITASTA GANJU, J

DECEMBER 12, 2024/r

Click here to check corrigendum, if any