



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

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Reserved on: January 27, 2025

Pronounced on: May 13, 2025

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W.P.(CRL) 1583/2021 & CRL.M.A. 13312/2021 (stay)

1. **DR. RANDHAWA ULTRASONOGRAPHY IMAGING
AND RESEARCH INSTITUTE**

(Through its Authorized Representative)

Dr. J.S. Randhawa

.....Petitioner No.1

2. **DR. J.S. RANDHAWA**

S/o Late Sh. D.S. Randhawa

Owner, M/s Dr. Randhawa Ultrasonography

Imaging & Research Institute

R/o 7/1, Prem Nagar, Janakpuri,

New Delhi-110058

....Petitioner No.2

3. **DR. SONAL RANDHAWA**

W/o Dr. J.S. Randhawa

Owner, M/s Dr. Randhawa Ultrasonography

Imaging & Research Institute

R/o 7/1, Prem Nagar, Janakpuri,

New Delhi-110058

...Petitioner No.3

Through: Mr. Percival Billimoria, Senior
Advocate with Mr. Khowaja Siddiqui,
Mr. Tushar Bathija, Mr. Jay Singh,
Ms. Shilpa Ohri, Mr. Aswini Kumar,
Ms. Rachita Sood & Mr. Arbaz Khan,
Advocates.

versus

1. **STATE OF NCT, DELHI**

.....Respondent No.1

2. **OFFICE OF DISTRICT MAGISTRATE**



(WEST DISTRICT)

Through appropriate Authority
Old Middle School Building,
Rampura, Delhi-110035

....Respondent No.2

Through: Mr. Yasir Rauf Ansari, Additional
Standing Counsel (Crl.) Mr. Alok
Sharma & Mr. Amit Sahni,
Advocates with SI Mukesh Yadav,
PS Hari Nagar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*) has been filed by the Petitioners for quashing of the FIR No. 0566/2017 under Sections 25/26/27 of Pre-Conception & Pre Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, (*henceforth referred to as the "PC&PNDT Act"*) dated 23.12.2017 registered at Police Station Hari Nagar, Delhi and all the proceedings emanating therefrom.

2. ***Briefly stated***, the Petitioner No.1, M/s Dr. Randhawa Ultrasonography Imaging and Research Institute submitted that, it is governed by the provisions of PC-PNDT Act in regard to issues of pregnancy, Prohibition of Sex Selection, Ultrasonography. It is recognized by M/s Jefferson Institute Philadelphia, Pennsylvania, USA, which maintains a very high standard in recognizing any Institute and providing continued recognition. There is a constant regular submission of Reports and



Inspection by M/s Jefferson Institute, to enable its recognized Institutes to continue to maintain the standards. No fault was found in the highest standard set up by the Petitioner No. 1, in meeting the standards prescribed by M/s Jefferson Institute.

3. It is submitted that the Petitioner No. 1-Institute was opened in the year 2000 and is imparting Training since then. In the last 17 years, it has trained about 4,000 Doctors in conducting Ultrasonography/Imaging and there has never been a single Complaint in the past. The Institute is properly secured by CCTV Cameras and all the recordings are stored in the Hard Disk of the CCTV-DVR. In addition to provide security, the CCTV Footage can also be used to find out any illegality/non-compliance of provisions of PC-PNDT Act by the Respondent Authority.

4. Originally, the Appropriate Authority under PC&PNDT Act for the Petitioner No.1, was District Magistrate, West. However, w.e.f. 26.09.2016, the Appropriate Authority was changed to District Magistrate (South-West District). An Official Communication to this effect was received by the Petitioner through e-mail 30.11.2016 and the Petitioners had been complying with all the formalities with the Appropriate Authority. Not only this, District Magistrate (South West District), in exercise of the powers conferred under PC-PNDT Act, has also conducted inspections of the Clinic of the Petitioners. The Petitioner No.1 - Institute sent intimation Letters to CDMO, District Appropriate Authority, South-West District, Dwarka regarding change, use and installation of ultrasound/sonography machines by the Petitioner No. 1 Institute, which was duly received by it.



5. The Petitioner No.1-has intimated the DAA, South West seven days prior to the date of usage of the demo *ultrasound machine Sono Scape*, in terms of Office Order dated 28.06.2016. Further, this Court in W.P.(C) No. 4009/2012 had also directed that seven days prior intimation to DAA is mandatory in case of change of machine, in its Order dated 27.07.2012.

6. The Petitioner has asserted that there is no allegation against the Petitioner that it had not submitted the various Returns required to be submitted to DAA.

7. The Appropriate Authority District Magistrate (South West District) conducted routine Inspections at the premises of the Petitioner on 28.03.2017 and 31.10.2017 and found everything in order.

8. On 21.12.2017, officials of the Office of District Magistrate (West District) inspected the premises of the Petitioner. Though he protested as it was not the Appropriate Authority, but by use of brutal force, the Respondent No. 2 conducted the Inspection and checked all the Records of the Petitioner Institute. They stayed in the premises for about five hours and illegally took away all the Records. No Seizure Memo/document was issued by Respondent No. 2 to the Petitioner while taking away the documents. The Respondent Authority also illegally took away the DVR of CCTV of the Petitioner, to ensure that their illegal acts and false allegations as recorded in the CCTV Footage, are not exposed. There is a grave apprehension that to save their skin, the Respondent No. 2 may destroy the Hard Disk or mishandle it in a way that it gets corrupted and not readable.

9. The CCTV Footage in fact, would prove that at the time of sealing of the Petitioner Institute's Machines, there was no valid Order of sealing in as



much as the sealing of Machines was done on 21.12.2017, while the Order of sealing is stated as 22.12.2017. *It is claimed that this alleged raid was only to settle the vendetta.*

10. The Inspection team of NIMC, SIMC and DIMC noted the following alleged discrepancies/ violations:

“(a) The notice board depicting ban on pre-natal sex determination [Rule 17(1)] is not in accordance with the format given by the State PNDDT Section, DFW, Govt. of NCT of Delhi.

(b) The demo/ use of the Ultrasound machine SONO SCAPE S50-S.NO.0505676851 was not approved by DAA. However, it was found to be used for ultrasonography in the centre (Contravention of Rule 13).

(c) The intimation letter regarding demo/use of of Ultrasound machine SONO SCAPE S50-S.NO.0505676851 submitted by the centre is not proper as the order of Govt. of India No. V.11011/ 05/ 2013/ PNDDT dated 14/05/2013 regarding the live demo of ultrasonography.

(d) Ultrasonography reports were found to be missing in all the Form F scrutinized during the inspection. (Section 29, Rule 9, Rule 10(A), Rule 11) (e) The thermal films of ultrasonography were found to be missing in all the form F scrutinized during the inspection.

(f) As per records your centre has been permitted by DAA vide reg. No. DL/W/2014/732 only for ultrasound clinic but it has been found that the centre is running ultrasound training centre, and this



changed of type of facility has not been intimated to DAA till date.

(Rule 4, Rule 13, Section 18)

(g) During the inspection it has been found that your centre is not approved as per rule 7(1) of PC&PNDT Six month training Rules 2014.

(h) During the inspection it has been found admission of students in your ultrasonography training courses not as per criteria mentioned in rule 8(1) PC&PNDT Six month training Rules 2014.

(i) All USG machine found to be in a single room in a proper class room setup, and found to be used by all the students got admitted by the centre. But as per records, Dr. J.S Randhawa/ Dr. Sonal Randhawa were allowed to use all the USG machine Reg. under Reg. No. DL/W/2014/732. No intimation of new doctors using the USG machine are given intimated to the DAA under Rule 13 till date.

(j) The centre failed to show any details about the other doctors who were found using the Ultrasonography machine during inspection, by NIMC team. (Rule 13, Rule 11).

11. The *Inspection* conducted on 21.12.2017 by Magistrate West District, had been ***challenged on the following grounds:***

- (i) that the DM, West did not have the jurisdiction and was not the District Appropriate Authority ;*
- (ii) that there was no Independent Witnesses;*
- (iii) that there was no reason to believe that any offence under Section PC-PNDT Act was committed; and*



(iv) *that no seizure list was prepared in the presence of the Petitioner and his staff or handed over to the Petitioner.*

12. The Inspection Report *qua* the inspection conducted at the Institute of the Petitioner on 21.12.2017, has also not been supplied to it compelling the Petitioner to file RTI dated 10.01.2018, to obtain the Inspection Report. It is asserted that the Inspection Report shows irregularities on the part of the Respondent No. 2 inasmuch as sealing procedure has not been followed, in accordance with PC-PNDT Act and Rules.

13. It is further asserted that live demonstration on patients, is not prohibited in Registered Centres as per the Letter dated 14.05.2015 from MOHFW, Government of India. The allegation that the live demo on patients, was going on at the time of inspection, is completely false and baseless. The same was duly recorded in the CCTV/DVRs, which were illegally taken away by the officials of the Inspection Team just to hide their illegal and arbitrary inspection. Moreover, the Inspection Report did not mention at all about the CCTV/DVRs in any of its documents. In fact, none of the machines were operational at the time of inspection and no patient was present.

14. It is further stated that a day after the sealing of the Petitioner's premises, the Respondent Authority issued Order dated 22.12.2017 suspending the Petitioner's Registration with immediate effect. On the same day, the Respondent Authority issued a Show Cause Notice directing the Petitioner, to submit its explanation within seven days failing which *Ex Parte* Order of cancellation of Registration, would be passed.



15. It is claimed that the *malafide* of the Respondent Authority stands established from the fact that though Respondent Authority had already suspended the Petitioner's Registration with immediate effect, there was no urgent necessity to give such a short Notice of seven days to the Petitioner. In fact, such short Notice was given so that the Petitioner's registration may be cancelled if the Petitioner defaults in giving his Reply within the stipulated period of seven days.

16. On 23.12.2017, FIR No. 0566/2017 under Section 25/26/27 of PC-PNDT Act was registered at Police Station Hari Nagar on the Complaint of District Appropriate Authority, West on the basis of the findings of Joint Inspection conducted on 21.12.2017.

17. ***The registration of FIR is challenged on the ground*** that it has been registered on the Complaint of DAA, West even though it had no jurisdiction to conduct the inspection or to make the Complaint. It was not the Competent Authority as per Section PC-PNDT Act.

18. It is asserted that the allegations made in the FIR, are devoid of any merit on the following reasons:-

- (i) That the images films were either taken by the Inspection team or are with the Petitioner Institute, despite which the Respondent Authority has alleged that the Petitioner Institute does not have the image films; and
- (ii) That the Inspection team never asked for the ultrasonography Reports, which were present with the Institute at the time of Inspection. The Appropriate Authority i.e. DAA, South-West had inspected the premises of the Petitioner on 31.10.2017 i.e.



just two months prior and nothing was found and did not find any kind of discrepancies/violations as per the Act and Rules.

19. The allegations that the Petitioner Institute had changed its name, purpose and object, is unfounded. The Registration Certificate under PC-PNDT Act i.e. Form B issued by the DAA, West clearly mentions the name of the Institute as '*Dr. Randhawa's Ultrasound Imaging & Research Institute*', which is still the name of the Petitioner's Institute and it is only imparting knowledge to the fellow doctors. In addition, as per the RTI, Reply from Directorate Family Welfare, New Delhi dated 13.03.2018 and also as per the PC-PNDT Act, there is no registration of any facility as "training centre" and no such Institute is registered till date in India.

20. The allegation that the kind of Educational Institute is totally unauthorized and issuing Ultrasonography Certificates, is illegal as per PC-PNDT Act and Rules, 2014, is frivolous and malicious. Imparting knowledge is not illegal as per the MCI & PC-PNDT Act and Rules, Moreover, the Petitioner No.1-Institute is not issuing Ultrasonography Certificates to its Fellow doctors as per PC-PNDT Rules, 2014. It is just conducting certified Workshops so that the fellow Doctors can learn from the experience of the Petitioner Nos. 2 and 3, which has nothing to do with PC-PNDT Training Rules, 2014.

21. The allegation that the Petitioner No. 1- Institute failed to show the approval to run Ultrasonography Training as mentioned in Rule 7 (1) PC-PNDT Rules, 2014 is unfounded because the Petitioner No.1- Institute was not running the Training Institute. Furthermore, no Authority bars the Petitioner No.1-Institute to impart the knowledge, which is being done as



per the *Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002*.

22. The admission of the students was not as per the criteria of PC-PNDT Act and Rules, 2014 because the Petitioner Institute does not fall within the ambit of PC-PNDT Rules, 2014. The Ultrasonography Machine, SONO SCAPE S50 with SL. No. 0505676851 was used by the Petitioner Institute, under intimation to the DAA, South-West, which is the Appropriate Authority w.e.f. 30.11.2016.

23. Furthermore, having all the Machines in a single room, is not illegal and not prohibited under the Act. The details of the doctors in the premises, who were attending the CME were not asked for and is a concocted allegation made by the DDA, West. Secondly, all the doctors were there to attend a CME, were not operating any of the *Ultrasound Machines*. In addition, some of the NIMC and DIMC members also took video graphic Interviews of the doctors present wherein nothing objectionable was found.

24. It is claimed that the Petitioner has lost its reputation amongst the entire medical community because of the illegal act of the Respondent Authority. Also the News of the sealing of the premises, has been published in various national level Newspapers widely. It is asserted that the Respondent has not left any stone unturned to bring disrepute to the Petitioner and to destroy its business. The *illegal sealing* of the Petitioner's premises, has resulted not only loss of business, but also future prospects.

25. The Petitioner had responded to the *Show Cause Notice dated 22.12.2017* served upon it by the Respondent through its Reply dated 05.01.2018 on which no final decision has been received by the Petitioner.



26. The Petitioner thus, *filed W.P.(C) No. 612/2018* in which the Respondents filed their Status Report claiming that the Petitioner Institute falls within the jurisdiction of West District Authority and not South West District Authority. The Respondent No. 2 was directed by this Court *vide* Order dated 09.02.2018 to decide the Objections stated in the Reply dated 05.01.2018 of the Petitioners with respect to the jurisdiction and to take cognizance of the material filed before it by the Inspection Team, within three days of receipt of Order. This Court was also of the view that unless there was a formal reversal with an intimation to the Petitioners, the Appropriate Authority *qua* their Centre would be the South West District Authority; the impugned Show Cause Notice and Order dated 22.12.2017 could not have been passed by the West Authority.

27. In compliance of the aforesaid Order of this Court, the Petitioner appeared before the West District Authority on 13.02.2018 wherein that they were informed that the West District, is the Appropriate Authority as per the Revenue Records and they would be deciding the Objections raised by the Petitioner. The Petitioners consequently filed their Representation as to why their registration should not be cancelled. In the meantime, the Petitioners were informed by the West District Authority, through e-mail dated 13.02.2018 that the file of the Petitioner was inadvertently transferred to DNO, SWD on 30.11.2016 and has been recalled on 21.12.2017, as per records.

28. The Petitioners then instituted Application *CM No. 8037/2018* seeking direction from this Court, to decide the Objections raised by the Petitioner, which was disposed of by this Court *vide* Order dated 01.03.2018



directing the Respondents to decide the Objections in consonance with the observations made by this Court in its earlier Order dated 09.02.2018.

29. The West District Authority *vide* its Order dated 07.03.2018 concluded that the action taken by them i.e. issuance of Show Cause Notice and Suspension Order dated 22.12.2017, is within its jurisdiction and in accordance with law.

30. The Petitioners then filed an *Application No. 9378/2018* before this Court, challenging the territorial jurisdiction of West District Authority over the Petitioner No.1- Institute, but it was dismissed as withdrawn on 12.03.2018 with liberty to take appropriate steps. Thus, the Petitioner filed a Writ Petition No. 2670/2018 in this Court, challenging the Order dated 07.03.2018 passed by DAA, West.

31. In the interim, it came to the knowledge of the Petitioners that the Appropriate Authority, South West District has issued a Certificate of renewal of Registration of Arogya Clinic, 71/84, Shop No. 2, Prem Nagar, Janakpuri, New Delhi-110058. It is in comprehensible as to how two Institutes in two localities, could fall under the jurisdiction of two different Authorities, which establishes the indifferent treatment being meted out to the Petitioner No.1- Institute for extraneous reasons and it also establishes that the entire inspection and the impugned FIR are coloured with malice.

32. It is further asserted that through RTI, the Petitioners have been able to find out that the File of the Petitioner has been transferred by the District Appropriate Authority, South-West to District Appropriate Authority, West, without following the due procedure as prescribed under Section 17 of the PC-PNDT Act. An Appeal was filed before the State Appropriate Authority,



PC-PNDT Act against the aforesaid Order of cancellation of registration dated 13.04.2018. Further, W.P. No. 2670/2018 was dismissed as withdrawn by the Petitioner No.1-Institute due to the pendency of the Appeal.

33. The *State Appropriate Authority dismissed the Appeal of the Petitioner vide Order dated 26.12.2018*. The Petitioners again filed the Writ Petition before this Court, to challenge the aforesaid Order of State Appropriate Authority but was dismissed as withdrawn on 05.12.2019 with liberty granted to the Petitioners, to appear before the Central Appellate Authority.

34. The Appeal preferred by the Petitioners before the *Central Appellate Authority was dismissed vide impugned Order dated 01.07.2019*. Pertinently, the Central Appellate Authority acceded to most of the arguments advanced by the Petitioners, but the Appeal got dismissed on the grounds:

- (i) *that running a Training Institute for imparting knowledge to its fellow MBBS doctors, is illegal; and*
- (ii) *the intimation to DAA, South West with regard to usage of demo Ultrasonography Machine, was not valid.*

35. Aggrieved by the Order dated 01.07.2019 of the Central Appellate Authority, the Petitioners had again filed *Writ Petition bearing W.P.(C) No. 7800/2019*. During the pendency of this Writ Petition, the Respondent Authority stated that the Petitioners would apply for grant of Training, which could be decided afresh in terms of the Notification dated 14.05.2015. The Statement of the Respondent No.2-Authority therefore, is sufficient to establish that the running a Training Institute is not barred under law.



36. The Petitioners thus, applied afresh for grant of Training with the Respondent Authority, which was denied stating that the registration of the Institute is cancelled. However, the Petitioners could apply for conducting the Training at any other registered Centre. It is claimed that such act of the Respondent No.2-Authority is only to harass the Petitioners, by going to any extent.

37. FIR No. 0566/2017 under Sections 25/26/27 of PC&PNDT Act, 1994 P.S. Hari Nagar dated 23.12.2017 got registered on the Complaint of District Nodal Officer, West, Delhi. On 29.07.2021, the Petitioners received a Notice under Section 41A of CrPC, to join the investigations at Police Station Hari Nagar, in response to which Petitioners joined investigations on 30.07.2021 where their statements were recorded. The Petitioners on 10.08.2021 filed a representation before the Investigating Officer for fair and proper investigation.

38. The quashing of ***FIR No.0566/2017 is sought on the grounds*** that the FIR alleges violation of PC-PNDT Act (6 Months Training) Rules, 2014 but at the time of Inspection of the Petitioner No. 1 Institute, PC-PNDT Act (6 Months Training) Rules, 2014 were held to be ultra vires *vide* Judgement dated 17.02.2016 in *W.P.(C) No. 3184/2014* and 11 other High Courts. The objective and purpose of the PC-PNDT Act is to regulate the use and stop misuse of such techniques and curb *female foeticide*. The impugned FIR nowhere alleges that the Petitioners were indulging in sex determination and thus, FIR is bad in law. The allegations against the Petitioners, are civil in nature and documentary.



39. Further, it is evident from the Order of Central Appellate Authority that only two issues were relevant, that too, in respect of Training Institute and the Intimation of Demo Machine Sono Scope. The involvement of Police and registration of FIR against the Petitioners, is not in consonance with the PC-PNDT Rules, 1996. It is in gross violation of Section 28 of the PC-PNDT Act and Rule 18A (3)(iv) of PC-PNDT Rules, 1996. From the provisions of Section 17, 17-A and 28, it is evident that the role of the Appropriate Authority, is most important. It has to act as an Investigator to enquire into the allegations of violation of PC-PNDT Act. Under Section 17(4)(e), Appropriate Authority has been empowered to take legal action against the use of *Sex Selection Techniques* by any person. Mere report or Complaint or information, cannot be the basis to prosecute the person. It is only if there is violation of the provisions of the PC-PNDT Act that the criminal law can be set in motion. The Respondent Authority has lodged the Complaint without conducting any inquiry/probe into the Report or recommendation of the NIMC and the officials of the Respondent Authority.
40. There is not an iota of evidence or even any allegations that the Petitioners were violating the provisions of the Act. It is asserted that the Complainant, DM West Authority District was not the Appropriate Authority and had no jurisdiction to file the Complaint.
41. The Search and Inspection carried out by the officials of the District West Authority was contrary to the provisions of the Act since it is the South West District, which was authorised to carry out the inspection.
42. The FIR is vexatious and hence, the prayer is made that the FIR be quashed.



43. ***The State in its Status Report dated 13.10.2021*** submitted that on the Complaint of the Competent Authority, the FIR was registered and due investigations were carried out. It was found that the Ultrasound Centre was registered in the name Dr. Komal Randhawa and Dr. J.S. Randhawa who were partners therein. They were called to join the investigation after giving Notice under Section 41A Cr.P.C. wherein they submitted their detailed Reply.

44. ***In the Status Report submitted by the Respondent No. 2-DM, West District***, it was stated that as per Section 28(1) of the PCPNDT Act, cognizance of an offence can be taken only on the Complaint of the Appropriate Authority, but there is no bar to either registration of FIR or investigation by the Police in any manner. Reference has been made to Hardeep Singh & Anr. v. State of Haryana and Ors., wherein High Court of Punjab and Haryana observed that Report under Section 173 Cr.P.C. along with the Complaint of the Appropriate Authority can be filed as cognizance can be taken only on the Complaint in accordance with the Section 28 PCPNDT Act.

45. The Complaint bearing *CC No. 3229/2018* has already been submitted before the Court of learned CMM on 16.05.2018 along with the copy of FIR No. 0566/2017 registered at P.S. Hari Nagar. Learned Magistrate on 19.12.2019 directed the learned SHO, P.S. Hari Nagar to submit the Final Report and the Charge-Sheet has been filed on 15.11.2023.

46. It is further submitted that the Competent Authority to make the Complaint is West District and not DM, South-West, as has been claimed



by the Petitioners and has been finally held by Central Appellate Authority *vide* its Order dated 01.07.2019.

47. It is further submitted that insofar as the Rules are concerned that *Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996*, though were held to be ultra vires in W.P (C) 3184/2014 *vide* Judgment dated 17.06.2016 by this Court, but the Judgment has been stayed by the Apex Court *vide* Order dated 14.03.2018 in Union of India v. Indian Radiological and Imaging Association & Ors. SLP(C) No. 16657-16659.

48. ***The Petitioners in their submissions as well as in the Written Submissions have submitted*** that the alleged illegality/irregularities noticed in the Inspection carried out on 21.12.2017, are not tenable. It is further asserted that the suspension of the Registration of the Petitioner No.-1, is contrary to the principals of natural justice. Such steps can be taken only in extraordinary circumstances when the Appropriate Authority is of the opinion that it is necessary or expedient to do so in public interest.

49. The main contention is that no FIR could have been registered for the offence under PCPNDT Act. Section 28 PCPNDT Act specifically provides that cognizance of an offence can be taken only on the Complaint of Appropriate Authority. Complaint as defined under Section 2(d) Cr.P.C. does not include a Police Report.

50. The Act is a Special Legislation where the Police may not have the expertise to investigate and therefore, the Act and the Rules specifically provide for investigation to be conducted by Appropriate Authority as per Section 17A of the Act. Section 18A(3)(iv) provides that Appropriate



Authority shall not involve the Police as cases under the Act are tried as Complaint cases under Cr.P.C.

51. It has been further contended that the Inspection was allegedly carried out by DAA, West District when in fact w.e.f. 26.09.2016 as intimated to the Petitioners via e-mail, the Appropriate Authority for the Petitioner was changed from DM, West District to DM, South-West District. Pursuant to this intimation, the Petitioners were filing all the compliances with DM, South-West District. The DM, South-West had even conducted Inspections at the place of the Petitioner on 28.03.2017 and 31.10.2017 and found everything in order. The DM, West, therefore, had no jurisdiction to conduct the inspection.

52. Furthermore, West District continues to claim that the File of the Petitioner was inadvertently transferred to South-West District and it has been recalled since the area as per the Revenue Record, falls in West District. No Notification in the Official Gazette for recall of transfer of the Petitioner to West District Authority, as required under Section 17 of the PCPNDT Act, has been issued. Thus, the inspection carried out by West District Authority is liable to be set aside on this ground itself.

53. ***The Respondent No.1-State in its Written submissions*** has reiterated that the cognizance has been taken on the Complaint filed along with the FIR in accordance with the Section 28 PCPNDT Act and therefore, the Complaint is not liable to be quashed.

54. It is further submitted that it is mandatory for the Police to register an FIR upon receipt of an information of commission of a cognizable offence



for which reliance is placed on Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1.

55. Reliance is also placed on Manoj Krishan Ahuja v. State of NCT of Delhi 2023 SCC OnLine Del 2303 where a Coordinate bench of this Hon'ble court has held that Section 28 of PC & PNDT Act does not bar registration of FIR or investigation by police on the basis of a Complaint lodged with the police.

56. This observation has been reiterated in Uravashi Fakay v. State of NCT of Delhi 2023 SCC OnLine Del 8091; Hardeep Singh v. State of Haryana (supra); Indian Radiological and Imaging Association v. Union of India & Ors. 2018 SCC OnLine P&H 3163; Dr. Rahul Malik v. State of U.P. & Ors. 2017 SCC OnLine All 4589; Dr. Rachna Raina v. State of Haryana 2023 SCC OnLine P&H 4095; Dr. Anant Ram v. State of Haryana 2022 SCC OnLine P&H 2284; and Ila Sood v. State of Punjab 2022 SCC OnLine P&H 946.

57. The Inspection has been carried out in accordance with the law while the Competent Authority i.e. DA, West District. Furthermore, on Inspection, it was found that the Petitioner was illegally running an Ultrasound Training/Educational Centre under the garb of Ultrasound Clinic, which was noticed by National Inspection and Monitoring Committee, State Inspection and Monitoring Committee and District Inspection and Monitoring Committee and the license of the Petitioner has thus, been cancelled.

58. Furthermore, the Registration granted to the Petitioners was only for the purpose of Ultrasound Clinic and Ultrasound Procedures and not for running any Ultrasound Training Centre. It is submitted that in terms of



Section 3, Rule 13, no doctor other than the one registered in that particular Centre, may use the machine installed. Other qualified doctors may use the Machine at that Centre only after notifying the Appropriate Authority (AA), within a period of 30 (thirty) days and no such intimation was given to Respondent No. 2, by the Petitioners for change in use of the equipment as well as the doctors.

59. It is submitted that the explanations given by the Petitioners that there was no violation of any of the PCPNDT Rules, is a subject matter of the trial and cannot be considered for quashing of the Complaint at the initial stage. It is also submitted that the defence of the accused cannot be considered at the stage of quashing of FIR for which reliance is placed on CBI v. Arvind Khanna (2019) 10 SCC 686 and Mohd. Akram Siddiqui v. State of Bihar (2019) 13 SCC 350.

60. Lastly, it is submitted that the Appropriate Authorities are duty bound to take actions on violation of provisions of the Act or Rules for effective implementation of the provisions of the PC & PNDT Act, 1994 as per the directions given by the Apex Court in Voluntary Health Association of Punjab v. Union of India (2016) 10 SCC 265 ; Voluntary Health Association of Punjab v. Union of India (2013) 4 SCC 1 and Federation of Obstetrics and Gynaecological Societies of India (FOGSI) v. Union of India & Ors. (2019) 6 SCC 283.

61. It is, therefore, submitted that there is no merit in the Petition, which is liable to be quashed.

62. ***Submissions Heard and Record Perused.***

Whether DA, West District was the Competent Authority:



63. The *first ground* on which the quashing of the complaint/FIR has been sought is that the Inspection was carried out by DA, West District when, in fact, the Competent Authority was DA, South-West District. For this, reliance has been placed on the e-mail dated 30.11.2016, received from DA, West District informing that the area has been transferred to DM, South-West.

64. It is further stated that in view of this transfer, the Inspections were carried out on 31.10.2017 and 21.12.2017 by the District Authorities, South-West and even all the compliances and formalities were being submitted by the Petitioner to DM, South-West District. This aspect of the DM, South-West being the Competent Authority had been taken up by the Petitioner for challenge before the National Inspection and Monitoring Committee, State Inspection and Monitoring Committee and District Inspection and Monitoring Committee.

65. The objection in regard to the jurisdiction of DM, West was taken by the Petitioner in W.P.(C) 612/2018 titled as '*Dr. Randhawa Ultrasonography Imaging and Research Institute v. Union of India*' but the Petition was disposed of vide Order dated 09.02.2018, directing West District Authority to decide this objection in regard to the jurisdiction.

66. DAA, West decided this issue of jurisdiction vide Order dated 07.03.2018. Learned DM noted that vide Notification No. F.PSDIV.COM.MISC/2011/1796 dated 17.06.2015, Hon'ble LG of NCT of Delhi had transferred eight villages/colonies of sub-division Patel Nagar, District West Revenue Department, Govt. of NCT of Delhi to sub-division Dwarka District, South-West Revenue Department, Govt. of NCT of Delhi.



67. Pursuant the aforesaid Notification, certain Files relating to different Centres falling under the transferred Revenue Villages, were transferred to DAA, South-West vide Letter dated 25.11.2016 by DAA, West. The Records of Petitioner Institute were also inadvertently transferred along with the other transferred files, even though the Centre was situated in Prem Nagar, Janakpuri which falls under the Tihar Revenue Village, which comes within the jurisdiction of District West, which had not been transferred *vide* aforesaid Notification.

68. It has been further observed that intimation regarding transferred Institute was given through official e-mail dated 30.11.2016 and monthly Reports were also received from Centre by DAA, South West. However, Inspections were carried out by National Inspection and Monitoring Committee on 21.12.2017 wherein certain discrepancies were noticed and directions were given in writing to District Appropriate Authority (West)/State Appropriate Authority to take necessary action as per the PCPNDT Act.

69. Pursuant to these recommendations, District Appropriate Authority (South-West), transferred the file to West District for the said Centre, as it fell within the sub-division of West District. Consequently, the inspection was conducted by District Appropriate Authority, West. ***It was thus, concluded that Appropriate Authority for the Petitioner Institute was DAA, West, which had rightly conducted inspection.***

70. The Petitioners filed another *Writ Petition W.P.(C) 2670/2018* challenging the order of DAA, West but the Petition was dismissed as



withdrawn on 20.11.2018, as the Petitioner had availed the alternate remedy of Appeal before State Appropriate Authority under PCPNDT Act.

71. State Authority dismissed the Appeal on 26.11.2018 by upholding the findings of the DM, West that on the basis of Revenue Reforms and relevant Notifications issued by Hon'ble LG, the Petitioner Centre was held to be falling in the territorial jurisdiction of DAA West.

72. This Order was unsuccessfully challenged before Central Appellate Authority under PCPNDT Act, which also upheld the order of DM, West vide its order dated 01.07.2019 wherein it was held that the contention of the Petitioner that DAA, West lacked territorial jurisdiction was unsustainable.

73. From the aforesaid discussion, it is evident that though inadvertently the Files were transferred to District Appropriate Authority, South-West in 2016, but actually as per the Notification of NCT of Delhi, this sub-division Colony never got transferred to South-West District. As soon as this anomaly was noticed, the Files were recalled by DAA, West and consequently, the inspections had been done with due Authority. Merely because there was inadvertent transfer of the files would not make DAA, South-West as the Competent Authority.

74. Further, because there was no Notification of the Govt. transferring the sub-division to South-West, there was no question of a Notification again to be issued for re-transfers of the area to the District West. In fact, there was no such Notification in the first place. The sub-division where the Petitioner No.1- Institute was situated, was never notified for transfer to District South-West. ***Therefore, it is District West, which continues to be the Appropriate Authority.***



Registration of FIR under PCPNDT Act:

75. The *second ground* taken by the Petitioner for quashing of the Complaint/FIR is that under Section 28 PC&PNDT Act specifically provides that cognizance can be taken only on the Complaint of Appropriate Authority and therefore, no FIR can be registered under the Act. Section 28 reads as under:

“28. Cognizance of offences.—

(1) No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court. Explanation.— For the purpose of this clause, “person” includes a social organisation.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.”

76. Section 28, therefore, makes it abundantly evident that a Complaint before the Court of learned Metropolitan Magistrate, can be initiated either by Appropriate Authority or Central Government or State Government, which may authorise an Officer other than the Appropriate Authority to file a Complaint on which cognizance can be taken by the concerned Court. The Appropriate Authority may also delegate its power to someone to file the



Complaint on its behalf. Other than these Authorities or Officers, no other person can initiate the Complaint, in terms of Section 28(1)(b) of the Act.

77. Further, Rule 18A(3)(iv) PCPNDT provides that no Police assistance be taken as far as possible.

78. Rule 18A(3)(iv) reads as follows:

“(iv) as far as possible, not involve police for investigating cases under the Act as the case under the Act are tried as complaint”

79. *Having held that the Courts can take cognizance only on the Complaint filed by any of the aforesaid Authority, the question emerges whether an FIR can be registered and whether the Charge-Sheet can be filed before the learned Metropolitan Magistrate and if so done, what is the status/fate of such Charge-Sheet.*

80. Under PC & PNDT Act, there is no mention of filing of a Charge-Sheet under the Act. In this context, reference may be made to Section 27 of the Act, which provides that *the offence under the Act, shall be cognizable non-bailable and non-compoundable.*

81. *Cognizable offences* are those where the Police has the power to make an arrest without a warrant and commence the investigation without prior permission of the Court. *Non-bailable offence* further indicates that Accused cannot be granted Bail as a matter of right. The moot question which thus arises, is what is the Police expected to do if any Complaint from any source is received by the Police *prima facie* disclosing the commission of a cognizable offence under PC & PNDT Act. Section 154 CrPC makes it mandatory for the Police to register an FIR on such a Complaint.



82. From the harmonious reading of the provisions of PC & PNDT Act, which make the offences as cognizable and non-bailable along with the provisions of CrPC, it cannot be said that no FIR can be registered or that the registration of FIR is barred under PC & PNDT Act. Further, as already mentioned above, Rule 18A(3)(iv) of PC & PNDT Act provides that as far as possible, Police being not involved for investigating cases under the Act, which again implies that the investigations by the Police, are not completely ousted. The Act also envisages investigations by the Police, if so required.

83. Though Section 28 of PC & PNDT Act is specific in providing that the cognizance can be taken only on the Complaint, but nowhere bars the registration of FIR or the investigations to be conducted therein or a Charge-Sheet be filed.

84. Pertinently, reference be also made to Section 4(2) CrPC, which reads as under:-

“All offences under any law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into trying or otherwise dealing with such offences.”

85. Therefore, all offences under “any other law” are also to be investigated, tried or otherwise to be dealt with as per provisions of CrPC, unless an exception is provided in ‘any other law’. ***The offences under PC & PNDT Act are cognizable and thus, registration of FIR and investigation by the Police per se is not barred under law.***

86. In this context, reference be made to Manoj Krishan Ahuja (supra) Coordinate Bench of this Court, which has held that Section 28 of PC &



PNDT Act only bars taking of cognizance by Court of law and does not bar registration of FIR or investigation by police on the basis of a Complaint lodged with the police.

87. In Urvashi Fakay (Supra) coordinate bench of this Court while relying on Manoj Krishna Ahuja (supra) has observed to similar effect.

88. In Hardeep Singh (supra) the Punjab and Haryana High Court has also observed that FIR can be filed under PC & PNDT Act and the only bar is qua cognizance of the FIR. It was held that:

- (1) *FIR for the offence committed under the Act can be registered on the Complaint of the Appropriate Authority and can be investigated by the Police; however, cognizance of the same can be taken by the Court on the basis of a complaint made by one of the persons mentioned in Section 28 of the Act.*
- (2) *A Report under Section 173 CrPC along with the complaint of an appropriate authority can be filed in the Court. However, cognizance would be taken only the complaint that has been filed in accordance with Section 28 of the Act.*

89. Similar observations have been made by a Division Bench of the Punjab and Haryana High Court in Indian Radiological and Imaging Association v. Union of India (supra) and Division Bench of Hon'ble High Court of Allahabad in Dr. Rahul Malik (supra).

90. In view of the aforesaid, the registration of FIR is not barred under PC & PNDT Act. Further, it is evident that merely because FIR/Charge-sheet has been filed, would not vitiate the Complaint on which the cognizance has been taken by learned MM.



91. In the present case, cognizance has been taken neither on the FIR nor on the Charge-Sheet, but on the Complaint filed separately by District Appropriate Authority. The Report under Section 173 CrPC is only a part of investigation as the initial Search, Seizure, etc. was carried out by the DAA. Therefore, this ground for seeking quashing is also without merits.

92. The contention of the Petitioners on merits is a subject matter of the trial and cannot be considered for quashing of the Complaint at the initial stage. Insofar as the grievance in regard to Cancellation of Registration is concerned, there is a separate mechanism for challenging it which has already been availed by the Petitioners.

93. In the light of aforesaid discussion, the Petition is hereby dismissed, along with pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 13, 2025/RS