IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S)(CIVIL) NO(S).349/2006

VOLUNTARY HEALTH ASS. OF PUNJAB
ETC. ETC. ...PETITIONER(S)

VERSUS

THE UNION OF INDIA & ORS. ...RESPONDENT(S)

O R D E R

We have heard learned counsel for the intervenor in this Writ Petition.

2. We find that this Writ Petition filed by the petitioner Association was filed in the year 2006, i.e., two decades ago, seeking the following reliefs:

> "I. To reconstitute the AAS and the advisory committees throughout the country, removing private doctors from these committees and putting on these committees reputed NGOs and individuals who are committed to the full implementation of the Act and who would be working full time in such capacity.
>
> II. To strengthen and expand the team of Appropriate Authorities and fix a budget for the same & establish an investigative arm under AA.

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BORRA LAKSHMI KALLI
Date: 2024.11.05
17:59:15 IST
Reason:

Ill. For an order making the A.A.s accountable such that they are directly held liable for worsening sex ratio in the area under their jurisdiction with clear legal consequences for breach of their duties.

IV. To make appropriate directions so that the statutory forms required to be maintained under the Act are maintained in duplicate and copies sent on a monthly basis to the AA's with reputed NGOs having access to the same for the purposes of monitoring and prosecutions and the A.As are held accountable.

V. To hold the A.As accountable for:

a. The statutory meetings to be held under the Act

b. The records to be maintained under the Act.

VI. For an order directing the Appropriate Authorities to allow one operator to operate only one ultrasound machine and responsibility should be fixed on the operator to stop use of machine by any other unauthorized person by sealing the same ·in his absence.

VII. Direction to the USC to inform the AA as required under Rule 6 whenever there is change of management.

VIII. For an order directing the Appropriate Authorities to seal the machines immediately when ultra sound clinics inform that the qualified person/operator is not present in the clinic.

IX. All powers of the Appropriate Authirities may be clubbed together under Sec. 17 A of the Act.

Therefore, Sec. 30 (1) and 30 (2), which deal with search and seizure and empower the AAs (or a person authorized by it) with the provisions of Code of Criminal Procedure, 1973, need to be included under Sec.17 A to get a comprehensive view of the power of the A.As.

X. To direct that the complete monthly report to be submitted either including form F or the full information pertaining to all columns contained in the Form F and appropriately reviewed by AA.

XI. To make appropriate directions to ensure that machines seized and registrations cancelled are not returned or re-registered and the rules under the Act for this purpose may be amended accordingly.

XII. To make appropriate directions to the Medical Council of India and all doctors making it mandatory and a "duty to disclose" for all doctors to make a formal complaint whenever it comes to the notice of any medical practitioner that a breach of the Act has happened, or is likely to happen and suspend license to practice pending enquiry.

XIII. To appoint special legal officers to carry out the prosecution under the Act before the magistrate in place of the Government Pleaders, further the district authorities may utilize services of lawyers and for this purpose and the registration money collected while registering the machines under the Act to be used for this purpose.

XIV. For order directing all manufacturers and all sellers of machines that come within the ambit of Section 3-B to disclose on a monthly basis, instead of

the present 3 months, to the Appropriate Authorities a list of persons to whom they have sold such machines.

XV. To constitute an enquiry committee to probe the legitimacy of use of ultrasourid machines, the number of ultrasound machines required and if any regulation of ultrasound machines is required and to Re-asses qualifications of personnel who can operate/use ultra sound machines.

XVI. To regularly monitor child sex ratio at birth on a monthly basis at the district level and appoint special officers.

XVII. To train and sensitise doctors on the actual repercussions of the misuse of the Act and to include it in the medical curriculum.

XVIII. For an order setting up of a Commission of this Court consisting of reputed NGOs and other individuals and government servants who are fervent in their endeavour to fully implement this Act, to conduct surprise raids, collect information and report to this Hon'ble Court from time to time making recommendations for the full implementation of the Act.

XIX. For an order directing the Government

a. to constitute special courts for adjudicating upon cases under the said Act,

b. to provide specialized training to the presiding officers dealing with offences under the Act,

c. to ensure a time bound trial,

d. not to release the ultrasound machines on

superdari in routine

e. to record the statement of the witness/decoy on priority basis

XX. For an order directing the Respondents to make the registration of births compulsory in all States

XXI. For an order directing the Respondents to dispose/sell /transfer old/ used ultrasound machine should be only in accordance with the Act.

XXII. For an order specifying the centers which will be allowed to keep ultra sound machines as Genetic Counseling Centres do not require ultrasound machines.

XXIII. To constitute an expert committee to review the 23 indications mentioned in the Form F wherein ultrasonography can be performed.

XXIV. For a direction to the Medical Council of India to take action according to the Act when informed by the AA or when it comes to know at its own.

XXV. To form teams like the National Inspection and Monitoring Committee may be formed at the State /UT level for conducting visits to the districts.

XXVI. To conduct methodical analysis of the birth and death registers in order to understand the trends.

XXVll. There should be a provision for separate registration of sonography/imaging techniques and

gynaecological techniques like Amniocentesis and Chronic Villi Biopsy (CVB) as their requirements are totally different. In the case of gynaecological techniques too, the applicant should have the choice to register for one or more specific techniques.

XXVlll. To direct that ultrasound not to be offered without referrals-greater involvement of gynecologists/general physicians along with sonologists to be encouraged.

XXIX. To direct the preparation of biennial audits of birth registers at hospitals ahd clinics to monitor sex ratio trends.

XXX. To direct the use of registration fees for:

a. Engagement of lawyers

b. Human resources for audit of Form F which will highlight multiple responsibilities of Appropriate Authorities and audit will be carried out on those terms of references

c. Sample audit of form F and/or

XXXI. To pass such other or further Order/s as may be deemed just, fair and proper in the facts and circumstances of the case."

3. During the pendency of this Writ Petition before this Court several amendments have been made to the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition on Sex-Selection) Act, 1994 (for short "PC & PNDT Act") and the Rules. In the circumstances, we find that the better course of action would be

to dispose of this Writ Petition with liberty to the petitioner or any other party who is interested in implementation of the said Act to file a fresh Writ Petition raising the issues with regard to the non-implementation of the Act as well as other incidental and ancillary issues.

4. Ordered accordingly.

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(R. MAHADEVAN)

.....J.
(DEVENDRA KUMAR UPADHYAYA)

NEW DELHI;
OCTOBER 29, 2026