

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.13979 of 2014 (O&M)
Sonologist Association of Punjab
-----Petitioner
Versus
Union of India and others
-----Respondents
2. CWP No.22 of 2016 (O&M)
Dr. Jatinder Sharma and others
-----Petitioners
Versus
Union of India and others
-----Respondents
3. CWP No.4887 of 2016 (O&M)
Dr. Amit Rawal and others
-----Petitioners
Versus
Union of India and others
-----Respondents
4. CWP No.12863 of 2016 (O&M)
Dr. Prabjot Singh Sibia and others
-----Petitioners
Versus
Union of India and others
-----Respondents
5. CWP No.15198 of 2016 (O&M)
Dr. Sunil K. Yadav and others
-----Petitioners
Versus
Union of India and others
-----Respondents

Date of Decision: 01.08.2016

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Kanwaljit Singh, Sr. Advocate with
Ms. Amandeep Sibia, Advocate
Mr. D.S. Patwalia, Sr. Advocate with
Mr. Kannan Malik, Advocate and
Mr. Vikas Chatrath, Advocate
Mr. Anurag Jain, Advocate
for the petitioners.

Mr. S.P. Jain, Additional Solicitor General with
Mr. Dheeraj Jain, Advocate for Union of India.

Mr. Gurminder Singh, Sr. Advocate with
Ms. Harpriya Khaneka, Advocate
for respondent No.3.

Mr. Ankur Mittal, Addl. A.G., Haryana.

HARINDER SINGH SIDHU, J.

This order shall dispose of above mentioned five petitions as common questions of law and facts are involved therein.

In these bunch of writ petitions, the petitioners have challenged the notification G.S.R. 13(E) dated 09.01.2014, whereby Rule 3(3)(1)(b) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (for short 'the Rules') has been amended to provide that any person wanting to set up genetic clinic/ultrasound clinic/imaging centre has to undergo six months training imparted in the manner prescribed in 'Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014', being ultra vires to the 'Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994' (for short "PNDT Act").

Also challenged is the notification GSR 14(E) dated 09.01.2014 whereby the 'Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014' have been notified.

The petitioners have also challenged all consequential actions initiated pursuant to the aforesaid notifications.

It is not disputed that the aforesaid issue has been considered by the Delhi High Court in ***Indian Radiological and Imaging Association Vs. Union of India and another 2016 (227) DLT 538***. Rule 3 (3)(1)(b) of the Rules as amended w.e.f. 09.01.2014 has been declared to be ultra vires the PNDT Act to the extent it

requires a person desirous of setting up a genetic clinic/ ultrasound clinic/imaging centre to undergo six months training in the manner as prescribed in the Six Months Training Rules.

The decision of the Delhi High Court was followed by a Division Bench of the Himachal High Court in ***Dr. Kuldeep Chand Maria Vs. Union of India and others 2016 SCC Online HP 497*** and identical directions were issued.

It has been stated that SLP (C) Nos. 16657-16659/ 2016 ***Union of India Vs. Indian Radiological and Imaging Association and ors.*** have been filed in which notice has been issued. However, the operation of the judgment has not been stayed.

As the question has already been decided by Delhi and the Himachal Pradesh High Court, and we are in agreement therewith, these writ petitions are disposed of in terms of the judgment of the Delhi High Court in ***Indian Radiological and Imaging Association's*** case (supra). All consequential actions are also quashed.

Since the writ petition is decided on merits, therefore, no orders are required to be passed in the application filed under Order 1 Rule 10 read with Section 151 CPC.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

August 01, 2016
Atul

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No