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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)  
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित  
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स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 4 जून, 2012

सा.क्र.वि. 418(अ).—केन्द्रीय सरकार गर्भाधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा गर्भाधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियमावली, 1996 में निम्नलिखित और संशोधन करती हैं, अर्थात्

1. (1) ये नियम गर्भाधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) संशोधित नियमावली, 2012 के नाम से अभिप्रेत होंगे।

(2) ये नियम सरकारी राजपत्र में प्रकाशित होने की तारीख से प्रभावी होंगे।

2. गर्भाधारण पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियम 1996 (इसके बाद कथित नियम के रूप में संदर्भित होगा) में नियम 3 के बाद नियम 3 क के पूर्व निम्नलिखित प्रतिस्थापित किए जायेंगे, जैसे:-

(3) "अधिनियम के तहत किसी आनुवंशिक क्लीनिक/अल्ट्रासाउंड क्लीनिक/इमेजिंग केन्द्र में अल्ट्रासोनोग्राफी करने के पात्र प्रत्येक चिकित्सा व्यावसायी को जिले के अन्दर अधिकतम दो ऐसे

क्लीनिक/केन्द्रों में ही पंजीकृत करने की अनुमति प्रदान की जायेगी। प्रत्येक क्लीनिक/केन्द्र के द्वारा इन चिकित्सा व्यावसायिकों के परामर्श घंटे स्पष्ट रूप से निर्दिष्ट किए जायेंगे।"

3. उपर्युक्त नियमों के अधीन नियम 5 के उप नियम (1) में निम्नलिखित उप नियम शामिल हैं:

(क) मद संख्या (क) में शब्द एवं अंकों में 3,000.00 रुपये शब्द के स्थान पर पच्चीस हजार रुपये" होंगे।

(ख) मद संख्या (ख) में शब्द एवं अंकों में 4,000.00 रु. शब्द के स्थान पर "पैंतीस हजार रुपये" होंगे।

4. उक्त नियमावली के नियम 13 में "ऐसे परिवर्तन के तीस दिनों के अन्दर" के स्थान पर "ऐसे परिवर्तन की संभावित तारीख से कम से कम तीस दिन पूर्व और समुचित प्राधिकारी से पंजीयन प्रमाणपत्र के पुनः जारी करने का अनुरोध जिसमें परिवर्तन का विधिवत समावेश होगा"।

[फा. सं. 24026/60/2008-पीएनडीटी]

मनोज झलानी, संयुक्त सचिव

टिप्पणी :-

मूल अधिसूचना जी.एस.आर. 1(ई.) दिनांक 1 जनवरी, 1996 द्वारा भारत के राजपत्र में प्रकाशित हुआ था और बाद में अधिसूचना सं. जीएसआर 109 (ई.), दिनांक 14.2.2003, जीएसआर 426 (ई.) दिनांक 31.5.2011, जीएसआर 80(ई.) दिनांक 9.2.2012 द्वारा संशोधित किया गया।

## MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

### NOTIFICATION

New Delhi, the 4th June, 2012

G.S.R. 418(E).—In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following further amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 namely :-

1. (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules,

1996 (hereinafter referred to as the said rules), after rule 3, the following shall be inserted, before rule 3A, namely:-

“(3) Each medical practitioner qualified under the Act to conduct ultrasonography in a genetic clinic/ ultrasound clinic/ imaging centre shall be permitted to be registered with a maximum of two such clinics/ centres within a district. The consulting hours for such medical practitioner, shall be clearly specified by each clinic/ centre”.

3. In the said rules, in rule 5 in sub-rule (1), the following sub-rule,-

(a) In item (a) for the letters and figure “Rs. 3,000.00”, the words “rupees twenty five thousand” shall be substituted.

(b) In item (b) for the letters and figure “Rs 4,000.00”, the words “rupees thirty five thousand” shall be substituted.

4. In the said rules, in rule 13, for the words “within a period of thirty days of such change”, the words “atleast thirty days in advance of the expected date of such change, and seek re-issuance of certificate of registration from the Appropriate Authority, with the changes duly incorporated” shall be substituted.

[F. No. 24026/60/2008-PNDT]

MANOJ JHALANI, Jt. Secy.

**Note :** The principal notification was published in the Gazette of India vide G.S.R. 1(E), dated the 1st January, 1996 and subsequently amended, vide notification numbers. G.S.R. 109 (E), dated the 14<sup>th</sup> February, 2003; G.S.R. 426 (E), dated the 31<sup>st</sup> May, 2011; G.S.R. 80 (E), dated the 9<sup>th</sup> February 2012.

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

**W.P.(C) 4009/2012**

**INDIAN RADIOLOGICAL AND IMAGING**

**ASSOCIATION (IRIA) and ANR. .... Petitioners**

**Through: Mr. Vikas Singh, Sr. Adv. with Ms. Amrita, Mr. Nanda and Mr. Sanket, Advs.**

**versus**

**UNION OF INDIA and ANR. .... Respondents**

**Through: Mr. Rajeev Mehra, ASG with Mr. Sumeet Pushkarna, Ms. Richa Tiwari, Advs. for UOI.**

**Mr. Ashish Kumar and Mr. Rajeev Aggarwal, Advs. for MCI.**

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

**23.07.2012**

**CM No.8402/2012 (of the petitioners for interim relief)**

**1. The notice of the writ petition impugning Section 2(p) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PNDT Act) and the Notification dated 04.06.2012 amending the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 has already been issued.**

**2. The petitioners seek stay of the Notification dated 04.06.2012 amending the Rules as under:**

**2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (hereinafter referred to as the said rules), after Rule 3, the following shall be inserted, before Rule 3A, namely:-**

**(3) Each medical practitioner qualified under the Act to conduct ultrasonography in a genetic clinic / ultrasound clinic / imaging centre shall be permitted to be registered with a maximum of two such clinics / centres within a district. The consulting hours for such medical practitioner, shall be clearly specified by each clinic / centre.?**

**3. In the said Rules, in Rule 5 in sub-rule (1), the following sub-rule:-**

**(a) In item (a) for the letters and figure ?`3,000.00?, the words rupees twenty five thousand? shall be substituted.**

**(b) In item (b) for the letters and figure ?`4,000.00?, the words rupees thirty five thousand? shall be substituted.**

**4. In the said Rules, in Rule 13, for the words ?within a period of thirty days of such change?, the words ?at least thirty days in advance of the expected date of such change and seek re-issuance of certificate of registration from the Appropriate Authority, with the changes duly incorporated? shall be substituted?.**

**The senior counsel for the petitioners has however at this stage not pressed for stay of the amendment aforesaid insofar as pertaining to Rule 5(1), enhancing the application fee.**

**3. The respondents in their reply to the application for interim relief have contended that the amendments aforesaid are intended to curb the steep**

decline in child sex ratio attributable to rampant misuse of ultrasound machines for determination of sex of the foetus in the womb.

4. There can possibly be no challenge to the intent aforesaid.

5. However the challenge by the petitioners is on the ground that the amendments aforesaid limiting the clinics in which the medical practitioner qualified to conduct ultrasonography can be registered and conduct ultrasonography to maximum of two will, rather than serving the intent aforesaid, limit the availability of ultrasonography as a diagnostic technique used for wide range of other purposes and will thus be detrimental to the public interest. It is yet further argued that such qualified medical practitioners visit a number of clinics, as per requirement and their consulting hours in the clinic also cannot be put in a straight jacket formula, making them unavailable at other hours even in case of need.

6. We are prima facie of the opinion that the enactment of Rule 3(3)(3) supra, rather than serving the intent with which it has been enacted, will harm the public at large. We are informed that the High Court of judicature at Bombay has vide order dated 20.07.2012 in Writ Petition Lodging No.1829/2012 has already stayed the operation of Rule 3(3)(3) supra to the extent it limits such qualified medical practitioners to be registered with two ultrasound clinics; qua the second part of Rule 3(3)(3) requiring the ultrasound clinics to specify the consulting hours of the medical practitioners, it has been directed that such specification shall not prohibit such medical practitioners from, when the medical exigencies require, attending the concerned ultrasound clinic at other times also. We follow the said order and direct accordingly.

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7. Insofar as the amendment to Rule 13 is concerned, the un-amended Rule required ultrasound clinics to intimate the Appropriate Authority of

every change of employee, place, address and equipment installed within a period of 30 days of such change. The senior counsel for the petitioners has challenged the amended provision requiring intimation in advance by 30 days of such change and seeking reissuance of Certificate of Registration with the changes duly incorporated by contending that the same will make the working of the clinics impractical; that most of the time, the employees do not give notice of change and new employees have to be hired immediately; that incorporation of such change in the Certificate of Registration also takes time and is dependent on the

functioning of the Appropriate Authority; if the Appropriate Authority delays the incorporation of the change, the ultrasound clinic will have to shut down its business till the Certificate of Registration with changes incorporated is issued. On inquiry, it is informed that the Rules do not prescribe any time limit from the date of the application within which the Appropriate Authority is to affect such change.

8. Learned ASG has contended that the said amendment was brought because it was found that many ultrasound clinics were not giving intimation of the change even within 30 days, as per the un-amended Rule. He under instructions states that if advance intimation of such change is given, the ultrasound clinic will not be deemed to be in breach / violation, even if the Certificate of Registration with the change incorporated is not issued.

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9. We are prima facie of the opinion that the condition of 30 days advance notice of change particularly qua employees is onerous. It further defies logic as to why, non compliance, even if, of the un-amended Rule, rather than enforcement thereof should invite such amendment.

10. We are in the circumstances of the opinion that insofar as the amendment to Rule 13 is concerned, the interim arrangement directing seven days advance notice for change of employees with a further condition that the delay on the part of the Appropriate Authority in incorporating such change in the Certificate of Registration would not stop the concerned ultrasound clinics from continuing their activities, would serve the purpose. As far as the change of place, address and equipment installed is concerned, we do not feel the need to grant stay or make any other interim arrangement inasmuch as knowledge of such change is generally available in advance and thus notice as per the amended Rule can always be given. However, we clarify that if 30 days advance notice of change of place, address and equipment installed is given, the concerned ultrasound clinic shall not be required to stop its activities even if the Appropriate Authority has not incorporated the change in the Certificate of Registration. This interim arrangement shall continue during the pendency of the petition.

The application is disposed of.

Copy of this order be given dasti to the counsels for the parties.

**ACTING CHIEF JUSTICE**

**RAJIV SAHAI ENDLAW, J**

**JULY 23, 2012/?gsr?**

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

**W.P.(C) 4009/2012**

**INDIAN RADIOLOGICAL AND IMAGING**

**ASSOCIATION (IRIA) and ANR. .... Appellants**

**Through: Mr. Vikas Singh, Sr. Adv. with Ms. Amrita, Mr. Nanda and Mr. Saket, Advs.**

**Versus**

**UNION OF INDIA and ANR. .... Respondents**

**Through: None.**

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**O R D E R**

**27.07.2012**

**CM No.8402/2012 (of the petitioners for interim relief)**

**1. Mr. Vikas Singh, Senior Advocate has mentioned the matter. He states that in the order dated 23.07.2012 certain errors have crept in and the order as signed is not in consonance with what was dictated in the Court.**

**2. We have called for the dictation book and find that in fact an**

error has crept into the order.

3. In supersession of the order released on 23.07.2012, we direct that the interim arrangement qua Rule 13 would be as under:

?qua change of place, address and equipment installed, it would be appropriate if seven days advance notice is given to the Appropriate Authority. Even if there is a delay on the part of

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the Appropriate Authority in incorporating the change and re-issuing the Certificate, that would not prevent the concerned clinics from effecting the change in place / address / equipment after a lapse of seven days and to continue with their activities. Insofar as change in employees is concerned, instead of advance notice, such an intimation can be given within seven days of the change.?

Copy of this order be given dasti to the counsel for the parties.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

JULY 27, 2012

?gsr?