The Landmark and Path Breaking Decisions for Effective Implementation of PCPNDT Act

Presented by :

Dr. Mrs. Shalini S. Phansalkar – Joshi
Judge, High Court, Bombay

CEHAT Vs Union of India
(2001)5 SCC 577

- In this P.I.L., the Supreme Court has passed several orders & directions from time to time for proper and effective implementation of the Act, with all vigor & zeal it deserves. S.C. also gave directions.
- For appointment of Appropriate Authorities,
- For amendment of the Act in view emerging technology.
- To review & monitor the implementation of the Act.
- To create public awareness against the practice of sex-determination & sex-selection.

CEHAT Vs Union of India
(2003) 8 SCC 398

- S.C. has expressed grave concern about discrimination against girl-child prevailing in India.
- Opined - The reason for the same - no change in the mind set which still favors a male child against a female.
- The misuse of modern science & technology preventing the birth of Girl Child by sex determination.
- Resulting into greater decline in sex-ratio in the 0-6 age group in States like Haryana, Punjab, Maharashtra & Gujarat which are economically better off .
- The law which aims at preventing such practice is not implemented by the government. Hence, S.C. again gave further directions for implementation of the Act.

In Orissa and in Haryana from near the place of Nursing Home and Clinic hundreds of skeletons, skulls & body parts of the children were recovered leading to strong allegation of existence of sex selection and sex determination.

Hemanta Rath Vs Union of India AIR 2008 Ori 71 and Gaurav Goyal –Vs- State of Haryana

Both the High Courts, after referring to the Act, its broader perspective and Human Rights & constitutional Principles, stressed on Constitutional obligation of the State to implement the Act.

S.K. Gupta Vs Union of India
[Law (Raj) 2012 (5) 72]

- In this P.I.L., a Division Bench upheld the decision taken by the State Government of filing of Form “F” online on the Government Website “hamaribeti.nic.in”.

- Directions for effective compliance within the time prescribed.

- Violation of the direction would amount to violation of the HC order under Article 215 of Constitution of India as well as under the Contempt of Courts Act.

- Further direction for expeditious hearing of the cases.
- To frame charge in the pending cases within two months, even by preponing the date.
- No laxity to be tolerated if Trial Court delayed framing of charge.
- Directions to Sessions Court to decide Revision against framing of charge within three months.
- Cases pending before HC for quashing and framing of charges to be listed on priority basis.

- Government to take action against erring Doctors/Centres.
- Investigation in pending cases to be completed as expeditiously as possible.
- List of the cases in which Charge-Sheet is filed to be submitted to the HC.
- Copy of the order sent to all C.J.J.D. and Sessions Judges, Registrar General, Chief Secretary, Director General of Police and Principal Secretary.

Voluntary Health Association of Punjab
Vs.
Union of India and Others
AIR 2013 SC 1571

- Various directions issued in this PIL to Central and State Supervisory Boards and Advisory Committees viz. to maintain all the records and forms in accordance with Rule 9. Mapping of registered and unregistered clinics within three months, Special Cell to monitor progress of various cases pending in the Court and to take steps for their early disposal.

- To seize, confiscate and sell Sonography Machines used illegally and contrary to the provisions of the Act.
- Courts to take steps to dispose of all pending cases within six months.
- To take steps to educate people on the necessity of implementing provisions of the Act.
- To conduct workshops and awareness camp focusing on the empowerment of women.
- To realize ultimate aim of having gender equality.

A married couple comes before the Court and submits that the right to personal liberty of a citizen of India, guaranteed under Art. 21 of the Constitution, includes the liberty of choosing the sex of the child.

Hence, couple is entitled to undertake any such medicinal procedure for determination or selection of Sex of child. Give your answer to this argument.

Vinod Soni V Union of India
2005 Cri.L.J. Bom. 3408

- Constitutional validity of the Act was challenged on the ground that it violates Article 21 of Constitution.

- Held – Right to bring into existence a life in future with a choice to determine the sex of that life can not in itself be a right.

- Right to life under Article 21 cannot include right to Selection of Sex - whether – pre-conception or post-conception.

A couple is having two daughters and desires of having a son so that they could enjoy the love and affection of both son and daughters and their daughters can enjoy the company of their own brother while growing up. Hence the said couple wants to go for sex-selection and sex determination.

It is argued that why they should not be allowed to make use of the pre-natal diagnostic techniques at pre-conception stage to have a male child.

What is your response?

- It is further argued that couple which is already having son / sons should be allowed to make use of the pre-natal diagnostic techniques and pre conception stage to have daughters and vice-a versa. Hence, there should not be blanket ban on sex selection and sex determination.

- What do you have to say about it?

- It is further argued that till today the conditions in our society are not yet conducive for the birth of a female child. A female child is subjected to all sorts of abuse and harassment, from sexual assault to domestic violence. Hence, till the conditions are improved, we should not have the girls to be borne and till then sex selection and sex determination should not be prohibited.

- What you have to say?

Vijay Sharma Vs Union of India
AIR 2008 BOM 29

- Constitutional validity was challenged on the ground that it violates Article 14 of the Constitution.
- High Court rejected the challenge holding that -
  - Sex –selection is against the spirit of Law & Constitution.
  - It affects the dignity of Women and undermines their importance.
  - It insults & humiliates womanhood.
  - It violates woman's right to life.

Whether the power to cancel registration of the Clinic given u/s. 20(3) of the Act can also include power to suspend the registration ?

M/s Malpani Infertility Clinic
Vs
Appropriate Authority
AIR 2005 Bom 26

- Contention that S.20(3) of the Act provides only for cancellation and not for suspension of the registration of the clinic.

- Held that such power has to be read in the Section.
- Otherwise the provisions of a welfare enactment will be rendered nugatory.

Dr. Varsha Gautam V/s State of U.P. MANU/UP/0857/2006

- H.C. refused to quash the process issued against the petitioner under the Act expressing concern in respect of the increased misuse of modern scientific technology leading to decline in female –male ratio spelling out very grave social consequences.

- H.C. observed that, “We are sitting on a virtual time-bomb, which can spell social disaster.”

Whether Appropriate Authorities are competent to ensure due compliance of the Act from the Clinics which are un-registered under the Act ?

Qualified Private Medical Practitioners And Hospitals Association Vs State of Kerala

MANU/KE/0330/2006

- Considering the object of the Act & provisions of S. 4(1) & S.22 of the Act, it was held that,

"Appropriate Authorities are competent to ensure due compliance of the Act from all persons, at all places & at all institutions, whether registered or un-registered under the Act, where the ultra-sound scanning device is installed".

- Whether the action of cancellation of registration and criminal prosecution for the offence under the Act can simultaneously take place ?

- Whether there will be bar of double jeopardy ?

Chitra Agrawal Vs State of Uttaranchal AIR 2006 Utr 78

- Held that - the action of cancellation of registration is directed against ultra-sound centre whereas criminal action is directed against the person who has committed the offence.

- Both the actions are independent. Hence, they can be proceeded with simultaneously.

Dr. Devendra Bohra Vs State of Haryana MANU/PH/0364/2010

- Challenge to suspension of registration of the clinic, seizure and seal of sonography machine.

- Considering object of the Act, it was held that a person must get his clinic registered under the P.C. P.N.D.T Act to operate sonography machine and for that purpose he must have requisite qualification required under the Act.

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Dr. Preetinder Kaur Vs State of Punjab 2011 Cri.L.J. 876

- Scope of S.28 of the Act was discussed.
- Held that it does not narrow down the class of persons who can initiate action under the Act.
- Apart from Appropriate Authority, an officer authorised by Central or State Govt. can also file a complaint.
- Complainant can also be a person authorised by Appropriate Authority itself or even a social organisation.
- Broadens the scope of S.28, giving authority to wide class of persons to initiate action, it being a legislation to prevent social evil.

Suo Moto Vs Sate of Gujarat
2009 Cri. L.J. 721 (F.B.)

- Gives progressive interpretation to S.4(3) of the Act holding that by virtue of deeming provision of the proviso to said section contravention of the provisions of S.5 or 6 is legally to be presumed. Hence, there need not be allegation in the complaint about the inaccuracy or deficiency in maintaining record as resulting in contravention of S. 5 or 6 of the Act.
- Burden to prove the contravention of this provision does not lie on the prosecution.
- Deficiency or inaccuracy in filling Form –F under Rule 9 is not merely a procedural lapse but an independent offence.

Dr. Mrs. Suhasini Umesh Karanjakar Vs Kolhapur Municipal Corp. 2011(4)AIR BomR 326 (F.B)

- Held that, words “any other material object” used in S. 30 of the Act and Explanation (2) to Rule 12 clearly provide that Appropriate Authority is empowered to seize and seal ultra-sound machines, other machines and equipments capable of aiding or assisting in sex-selection. (Earlier contrary view reversed).
- Considering declining sex-ratio in Maharashtra from 913 in 2001 to 883 in 2011, the directions were given for expedite disposal of the pending cases under the Act with utmost priority, preferably within one year.

Radiological & Imaging Association Vs Union of India MANU/MH/1050/2011

- Circular, issued by the District Magistrate, Kolhapur requiring Radiologists & Sonologists to transmit Form –F online within 24 hours, was challenged on the ground that it is without authority of law.
- H.C. rejected the challenge holding that it will avoid under –reporting and false reporting & it is in keeping with the letter & spirit of S.17 (4) of the Act.

Radiological & Imaging Association
Vs
Union of India
MANU/MH/1050/2011

- Challenge was also to another Circular directing installing of electronic device named as silent observer in sonography machine.
- H.C. rejected it holding that right to privacy must be circumscribed by the compelling public interest flowing through each and every provision of the Act in the Background of declining sex-ratio.

Dr. Kalpesh J. Patel v. State of Gujarat & ors. MANU/GJ/0994/2011

- Issue raised for consideration – whether Appropriate Authority can seize and seal Sonography machine without issuing a Show Cause Notice or giving an opportunity of hearing.
- Held – there is no express provision in the PCPNDT Act or the Rules for issuance of a Show Cause Notice before making Panchnama and sealing Sonography Machine.
- - Seal and seizure of Sonography Machine is to furnish evidence for commission of an offence. Hence, it cannot be said that prior Show Cause Notice is essential before conducting search and seizure. Otherwise, it would frustrate the object itself.
- - There is no requirement of passing a reasoned order before taking such action in the context of Sec.30 and Rule 12 of the Act.

Dr.Kalpesh J.Patel Vs.State of Gujarat & Ors. MANU/GJ/0994/2011

- Another issue raised was – whether Show Cause Notice and opportunity of hearing necessary before suspending registration of the clinic u/s. 21 of the Act.
- Held – such notice is necessary u/s 20(1) & (2) of the Act. However, what is warranted is substantial compliance and not the technicalities.
- In this case, the inspection of the Clinic of the Accused was conducted twice and he was directed to comply the provisions of the Act. Despite that in third inspection again he was found contravening the mandatory requirements. Hence, considering the noble object and purpose of the Act, it was held that he was given sufficient opportunity of hearing and notice.

Dr. Sujit Govind Dange v. State of Maharashtra D.B. Bom. H. C. Dated 16.8.2012

- The issues raised for consideration were,

✓ whether opportunity to show cause or of being heard was required to be given to the Petitioner before seizure of Sonography Machine ?

✓ Whether approval of Advisory Committee was necessary before seizure of Sonography Machine ?

✓ Whether suspension of Licence for indefinite period was in complete violation of Principles of Natural Justice and hence contrary to Sec.20 of the Act.

Dr. Sujit Govind Dange v. State of Maharashtra D.B. Bom. H. C. Dated 16.8.2012

- Held :
- Considering the objectives of the Act to be achieved, in order to protect the larger public interest, the Appropriate Authority has been given exceptional powers under sub-section 3 of Sec.20 of the Act to suspend the registration of the Clinic and seize the Sonography Machine, without giving Show Cause Notice or an opportunity of hearing to the Accused.

Dr. Sujit Govind Dange v. State of Maharashtra D.B. Bom. H. C. Dated 16.8.2012

- It was further held that, the words "unless contrary is proved" used in proviso to Sec.4(3) of the Act requires that such presumption laid down in proviso to Sec.4(3) of the Act is to be rebutted at the time of trial and not at the stage when Sonography Machine is seized or registration is suspended. The burden will lie on the Accused to prove the contrary at the time of trial before the Criminal Court that there was no deficiency or in accuracy in maintaining and preserving the complete record of the clinic.
- It also cannot be said that suspension of registration is for indefinite period because it is only upto the conclusion of criminal trial.

Radiological & Imaging Association (State Chapter) v. Union of India & Ors. – 2011(12) LJSOFT 12.

- Issue–When the portable ultra sound sonography machine is permissible and available in view of modern Technology – whether the direction issued by the Authority restraining taking of the machine out of the premises is arbitrary, illegal, and in violation of Article 14 & 21 ?
- Held – Taking note of declining female sex ratio, the object and the purpose of the Act, it was held that such direction is the most reasonable, in public interest and does not violate any of the Fundamental Rights. It is also in consonance with the provisions of the Act and only with a view to prevent possible misuse of sonography machine. It was also issued on the basis of experience and the collection of the data about the misuse of such portable machines.

Anil Kumar Mishra v. State of UP & Ors. MANU/UP/0514/2011

- Held that only a qualified person can run Ultra sound Centre/Clinic. Rule 3 prescribes qualification for clinic and also for the persons running the clinics.
- The Registration of Medical Practitioners under the Indian Medical Council Act and inclusion of his name in the State Medical Register is an essential qualification for registration of Ultra Sound Clinics. Even for a registered Medical Practitioner of possessing Post Graduate Degree or Diploma or Six months training or One year's experience in Image Scanning is must for registration under the PCPNDT Act.
- Considering the declining female sex ratio and the object of the Act, it was held that it is necessary to stop the reality of millions of female foetus being aborted by unqualified and unethical Medical Practitioners.

In the court of
Sub-Divisional Judicial Magistrate - Palwal
State through District Appropriate Authority Faridabad
Vs Dr. Anil Sabhani

- A very good Judgement of conviction u/s. 23 for violation of S.5(1)(2), S.4(1)(2)(3), S. 29 read with Rule 9 of the Act with realistic appreciation of evidence, though three prosecution witnesses had become hostile.
- The court expressed need to take care of witnesses .

Satya Trilok Kesari @ Satyanarayan
s/o. Trilokchand Lohia
Vs.
State of Maharashtra and Anr.
2012 (6) LJSOFT 389

- Article in legal newspaper on how to conceive a male child through naturopathy.
- Case filed under Section 22 of PCPNDT Act against the Applicant.
- Application filed in HC for quashing proceedings.
- Argument that it was a research paper.
- Argument was rejected holding that intention of the Applicant has to be read between the lines.
- Some paras very explicit and held it amount to violation of Section 22(1) of the Act.

Dr. Pradipchandra Mohanlal Gandhi & Anr.
Vs.
Maharashtra Medical Council, through its Registrar and Anr.
Civil Writ Petition No.6495 of 2012
Decided on October 22, 2012

- Whether Medical Council is required to hold enquiry before suspension or removal of the registered medical practitioner u/s. 22(2) of the Act.
- Held no such enquiry essential.
- Mandate on AA to inform Medical Council the name of Doctors against whom the charges are framed and who are convicted.
- No further enquiry necessary by Medical Council to suspend the registration or to cancel it.

Dr. Mrs. Kakoly Borthakuar
Vs.
Dr. Pramodkumar s/o. G. Babar and Others
2010 (8) LJSOFT (URC) 152

- Where the complaint to be filed u/s. 28(1) of the Act?
- Whether at the place sonography test was conducted?

OR

- At the place where girl child was born?
- Held at the place where sonography test was conducted.

Dr. Kavita Pramod Kamble (Londhe)

Vs.

State of Maharashtra and Anr.

Writ Petition No.3509 of 2011

Decided on June 11, 2013.

- Application against framing of charge on ground that -
- no sufficient evidence to frame charge.
- Rejected as there was evidence of decoy patient, prescription, receipt of examination fee, sonography report and undertaking of decoy patient.

Dr. Vandana Ramchandra Patil
Vs.
The State of Maharashtra and Anr.

Cr. Writ Petition No.4399 of 2012

Decided on January 23, 2013.

- Pending criminal trial, sonography machine was sealed and licence suspended. Trial Court allowed opening of the seal so that sonography machine can be used. Order challenged in the HC.
- Held crime is repetitive in nature. Sonography machine is most important component. If the seal is opened, accused is facilitated to repeat the offence. Prevention of crime best achieved by sealing machine. Repetition of such crime has to be prevented.
- Held order of opening of seal and release of machine cannot be made mechanically.
- Court must consider the effect and impact of such order.

Subhash Gupta Vs. State
Bail Application No.1556 of 2010
Decided on September 27, 2010

Anticipatory Bail Application rejected having regard to the probity of the allegations and serious nature of the offence that of conducting sex detection and determination test.

Dr. Ravindra s/o Shivappa Karmudi
Vs.
State of Maharashtra
2012 (10) LJSOFT 138

- Procedure for conducting the trial u/s. 22 and 23 of the Act is that of warrant case registered on a complaint otherwise than on police report.

- Hence evidence before framing of charge has to be recorded.

Why work for effective implementation of law

- Mindset change important but a slow process. Hence, need to work for focused implementation of law also.
- Law is challenging as sex selection happens behind closed doors.
- Need to interpret the law in the broader context of how the issue impacts social and cultural fabric of the country and with the intention of preventing gender discrimination.

Why work with judiciary?

- Judiciary is an important stake holder.
- Work with judiciary is critical to uphold gender equality through implementation of gender related laws.
- Work with judiciary important for speedy redressal of cases.
- Work with judiciary would help to create a deeper understanding of the issue thereby helping judicial officers to own the issue.

Working with judiciary in Maharashtra

- Joint effort of UNFPA, Department of Public Health, Maharashtra State Legal Services Authority and Maharashtra Judicial Academy.
- Ongoing advocacy with High Court (Hon Chief Justice and Registrar General) to create a conducive environment to work with Judicial officers.
- The initiation- A state level workshop organized for senior Judicial officers under chairpersonship of Chief Justice of High Court.

Reaching out to all judicial officers in the State

- 28 workshops organized covering all 33 districts of Maharashtra.
- 1192 Judicial officers and 425 prosecutors attended the workshops organized over a two year period. (June 2009-March 2011)
- High Court Judges attended 60 percent of workshops organized at the district level to reemphasize on the importance of the issue.

Process Followed

- Structured program designed including: the issue, the law, Government and NGO efforts to address sex selection and the role of Judiciary.
- Creating a team of impactful resource persons.
- Developing needs based reading and training material for Judicial officers.
- Inviting prosecutors to be part of workshops along with judicial officers.

Impact of work with Judiciary

- Maharashtra which was the first State to enact the Law in 1988 had its first conviction with imprisonment only after the sensitization process in 2010.
- Prior to work with Judiciary, convictions involved a mere fine. Following work with Judiciary, convictions involved both fine and imprisonment as provided by the law , upholding its seriousness in letter and spirit.
- Fifteen landmark judgments pronounced thus far by trained Judicial officers- For advertisement, improper maintenance of records and revealing sex to (decoy) clients.

Impact of work with Judiciary ….Contd

- Five doctors not granted bail during Judicial proceedings to ensure a deterrent effect.
- Name of 22 doctors suspended from Medical council
- Names of 57 doctors given to Medical council for deregistration following framing of charges.
- **Book with analysis of cases under PCPNDT brought out as reference document by Judicial Academy to help future cases. Released by Hon Chief Justice.**

Ad for 'treatment' promising son seals case against docs

COURT HANDS 3-year terms to Aurangabad homoeopath, city doctor for conducting pre-natal sex determination tests

HT Correspondent

ENDING LIFE BEFORE IT BEGINS

Sex determination is the process by which one can determine whether the child in the womb is male or female. In India, techniques developed to detect genetic deformities in foetuses have been increasingly used to determine the sex of foetuses so that the female among them can be aborted.

1 Chorionic Villus Biopsy (CVB) or chorionic villus sampling is a diagnostic procedure in which a particular sample is removed from the uterus with a fine needle. This test is normally carried out when the foetus is between 8 and 11 weeks old. Ideally done on people with a high risk of genetic abnormalities.

2 AMNIOCENTISIS is a popular technique in urban India for determining the sex of a foetus. Carried out in the second trimester, this test is normally done on women over 35 years of age as they are at higher risk of having babies with chromosomal disorders.

3 ULTRASOUND SCAN involves transmitting high-frequency sound waves through the uterus.

THE LAW

MUMBAI: The Shindewadi Metropolitan Magistrate's Court in Dadar convicted two doctors last Friday for violating the law that prohibits tests for determining the sex of an unborn child and advertising a 'treatment' for those who wanted a son. The doctors were sentenced to three years in prison.

The Pre-Conception and Pre-Natal Diagnostic Test (Prohibition of Sex Selection) Act (2003) prohibits the advertising of pre-conception and pre-natal determination of sex.

According to the prosecution, Aurangabad-based homoeopath Chhaya Tated (42) gave the advertisement in a magazine in 2004. She used to visit Shree Maternity and Nursing Home in Dadar owned by Dr Shubangi Adkar (62), twice a month.

"We don't know how many tests they conducted as they didn't maintain records. It was the advertisement that helped us nab them," said Brihanmumbai Municipal Corporation (BMC) prosecutor Zarir Engineer.

A complaint was filed against the duo by the BMC G/North Ward office after an inspection at the maternity home following the appearance of the advertisement.

Publication: The Times Of India Mumbai; Date:2009 Nov 02; Section:Front Page

Two docs in city get 3-yr jail for pre-natal sex tests

Swati Deshpande | TNN

Mumbai: In a rare case, possibly the first of its kind in Mumbai, a local court has convicted two doctors and sentenced them to three years imprisonment for flouting the law that prohibits diagnostic tests on pre-natal and pre-conception sex selection.

An advertisement in a weekly magazine in November 2004 offering a 'special treatment to those who 'want a boy' landed 42-year-old homeopathic doctor Chhaya Tated and Dr Shubhangi Adkar, a 62-year-old who owns Shree Maternity and Nursing Home in Dadar, in trouble. Tated used to come from Aurangabad to the Dadar nursing home on two Sundays a month to practise.

Magistrate R V Jamblar of the Dadar Shindewadi court in Mumbai held the doctors guilty for four violations under the Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of sex selection) Act of 2003.

Significantly, the court not only found them guilty, but dismissed their plea for leniency and sentenced them to the maximum punishment permitted under the act—a three-year jail term.

WHAT THE LAW SAYS

Section 22 of the PNDT Act deals with prohibition of advertisements relating to pre-conception and pre-natal determination of sex

- It prohibits any person, organisation, genetic counseling centre or clinic which has an ultrasound scanner or other technology to determine the sex of a foetus from issuing any advertisement for the availability of sex determination or sex selection before conception
- No person, company or organisation can advertise pre-conception selection of sex by any means, scientific or otherwise
- Any violation of the above-mentioned law attracts maximum three years jail and fine of up to Rs 10,000

'Don't deserve leniency', P 2

No leniency for sex-test doctors

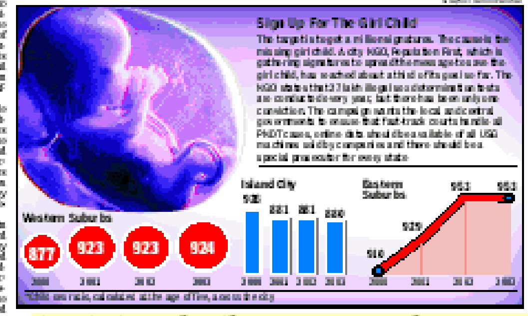
Court Takes Erring Medicos To Task, City's Child Sex Ratio At Birth Among Poorest In State

Swati Deshpande | TNN

MISSING: LITTLE WOMEN

Sign Up For The Girl Child

The target is to get a million signatures. The cause is the missing girl child. A city NGO, Population First, which is gathering signatures to spread the message to save the girl child, has reached about a third of its goal so far.



Medicos back govt actions

Activists hail move, say long way ahead

MUMBAI'S SHAME

NBT नवभारत टाइम्स

प्राइवेट हॉस्पिटल में सरकारी 'सेक्स डिटर्मिनेशन'

July - 28 Sakaal

गर्भलिंग निदान करणारा गजाआड

Success Stories

In the Court of M.M. Shindewadi, Mumbai.

MMC –Vs- Chhaya Tated and Shubhangi Adkar, Decided on 14/08/2009.

Accused No. 1 had twice published advertisement in weekly magazine Lokprabha in Nov. 2004 soliciting whether any one wants a son? If yes, such person can come to clinic- Shree maternity and nursing home.

‘मुलगा हवा’

गर्भधारणेपुर्वीच

विशेष उपचार ! दर 2 रा, 4 था रविवार

(वेळ 12 ते 6) डॉ. छाया तातेड

(फॉरेन रिटर्न)

श्री. नर्सिंग होम, सेना भवनसमोर, दादर, मुंबई. **24464985**

सोम. मंगळ

शुध्दीपत्रक **मुलगा हवा?**

मुल हवं? गर्भधारणेपुर्वीच

ऐवजी मागील अंकात मुलगा हवा असे **विशेष उपचार! दर 2रा, 4था रविवार**

चुकीने छापले गेले. तरी गर्भधारणा – **वेळ 12 ते 6, डॉ.छाया तातेड (फॉरेनरिटर्न)**

- The defence that it was a printing and editorial mistake was rejected as after thought and accused were convicted for a period of three years and fine of Rs. 10,000/- under section 22(3) and 23 for contravention of Rules 4(1) (2), 6(2), 9(1).
- Conviction of Accused confirmed.

In The J.M.F.C. Court of Parola , Dist. Jalgaon
Dr. Sambhaji Patil
Vs.
Dr. Prashant Navnitlal Gujrathi
Date of Decision 27/07/2010

- On inspection by Appropriate Authority of Sonography Clinic, Shriji Hospital, it was found that the record in Form F and Register of the sonographies conducted there in, was not maintained.
- Accused was prosecuted for contravention of Rule 9 (4) of the Act.
- At trial accused raised several defenses which were considered in detail and rejected by giving sound reasoning.

In The J.M.F.C. Court of Parola , Dist. Jalgaon

Dr. Sambhaji Patil

Vs.

Dr. Prashant Navnitlal Gujrathi

Date of Decision 27/07/2010

"Accused was convicted and sentenced for imprisonment of one year and fine Rs 5000/- under section 23 and 25 for contravention of Rule 9(4)– Non maintenance of records "

Highlight of the Judgment

Copy of the Judgment was sent to Appropriate Authority with Direction for necessary action of cancellation of registration u/s 23 (2).

In the Court of J.M.F.C. Karad
Govt. of Maharashtra Vs Dr. Prabhakar Pawar Decision 06/09/2010

- Decoy patient- 6 months pregnant lady was sent by Adv. Varsha Deshpande with marked currency notes of Rs. 2500/- for conducting Diagnostic Technique.
- Accused conducted the test and informed her that fetus was of male child.
- Accused was caught red handed. On inspection, it was found that :

➢ Accused has not maintained record,

➢ Not obtained signature of pregnant Lady on Form F;

➢ Not displayed the board prohibiting use of Technique for Sex Selection.

In the Court of J.M.F.C. Karad
Govt. of Maharashtra Vs Dr. Prabhakar Pawar Decision 06/09/2010

- After proper appreciation of evidence, Accused was convicted for as many as 9 offences and given full punishment of imprisonment of three years and fine of Rs 10,000/- on each count under section 23 for contravention of Sections 3(1) , 5, 6, 29(1) (2) and Rules 3(1), 9, 10(1a), 17(1)(2) for revealing sex to a decoy client.

Highlights of the Judgment

- Written in Marathi

- Sonography machine is ordered to be confiscated to the State .

Let us be the change that we want to see.

- Mahatma Gandhi

There is nothing more powerful than an idea whose time has come.

- Victor Hugo


Thank
You