

Punjab-Haryana High Court

Dr. Amarjit Singh Rattan And ... vs State Of Punjab And Others on 17 January, 2018

CWP No. 25256 of 2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CWP No. 25256 of 2017 Date of Decision: 17.1.2018 Dr. Amarjit Singh Rattan and another  
.....Petitioners v.

State of Punjab and others .....Respondents CORAM HON'BLE MR. JUSTICE RAKESH KUMAR  
JAIN Present:- Mr. Yogesh Goel, Advocate, for the petitioners Mr. H.S. Sitta, AAG, Punjab

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RAKESH KUMAR JAIN, J (Oral) :

The petitioners have challenged the order dated 12.4.2017 passed by Dr. Rajiv Bhalla, District Appropriate Authority-cum-Civil Surgeon, Ludhiana, suspending the registration No. DDA/LDH/11/347 w.e.f. 12.4.2017 of Genetic Counseling Centre of the petitioner, known as Rattan Multispeciality Hospital and Diagnostic Centre, in terms of the provisions of Section 20(3) of the Pre Conception and Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (in short "the PNDT Act"), and the order dated 8.8.2017 by which, appeal filed by the petitioner under Section 21 of the Act, was dismissed by Dr. Rajiv Bhalla, acting as Chairman of the Appellate Authority.

Although learned counsel for the petitioners has raised various issues in this petition, challenging the authority of Dr. Rajiv Bhalla to act solely as the Chairman, District Appropriate Authority, in view of Section 1 of 3 17 (3) (a) of the Act and the decision of this Court in the case of 'Help Welfare Group Society v. The State of Haryana and others, CWP No. 21565 of 2011 decided on 18.9.2013 and has also referred to an interim order passed in "Dr. Zoni Jain and another v. State of Punjab and others, CRWP No. 977 of 2016, and also to an interim order passed in 'Dr. Amarjit Singh Rattan and another v. State of Punjab and others, CWP No. 21014 of 2017, inter alia, on the ground that in case the order of suspension was to be passed without show cause notice, then the Appropriate Authority was required to form an opinion i.e. it is not necessary or expedient in the public interest but in the present case, it is alleged that no such opinion was formed and that a single member Appropriate Authority at the District Level cannot be constituted.

It is further submitted by him that the order passed by Dr. Rajiv Bhalla as District Appropriate Authority could not have been set aside by him only as the Appellate Authority being the Director, Health and Family Welfare Authority.

Learned counsel for the respondents-State has argued that the petitioners have been indulging in the act of determining the sex of the foetus in violation of the provisions of the Act and has also been caught red handed. However, he could not deny that the impugned order passed against the petitioner by Dr. Rajiv Bhalla, Civil Surgeon on 12.4.2017 has been maintained by him by acting as the Appellate Authority, in terms of Section 21 of the Act, as he was appointed as the Director, Health and Family Welfare Authority in the meantime.

Be that as it may, the fact remains that the order passed by an authority cannot be maintained in appeal by the same authority on the 2 of 3 principle that 'nobody can be a judge of his own cause'.

Thus, in view of this irregularity, I find merit in this petition and thus, the order passed in appeal, upholding the order of suspension by Dr. Rajiv Bhalla as Appellate Authority, Ludhiana is hereby set aside and the matter is remanded back to the State Appropriate Authority to hear the appeal of the petitioners.

Parties are directed to appear before the State Appropriate Authority on 23.1.2018. The State Appropriate Authority is further directed to decide the appeal expeditiously, preferably within a period of 15 days from the date of appearance of the petitioners, by passing a well reasoned order.

Copy of this order be given to learned counsel for the parties under signatures of the Bench Secretary for compliance.

(RAKESH KUMAR JAIN)  
JUDGE

17.1.2018  
Ashwani

Speaking/Reasoned  
Reportable

Yes/No  
Yes/No