## IN THE HIGH COURT OF HARKHAND AT RANCHI W. P. (C) No. 3858 of 2016

Mahesh Kumar

Petitioner

1. The State of Iharkhand,

2. Director, Tharkhand Rural Health Mission Society, Department of Health, Medical Education and Family Welfare, Govt. of Tharkhand, Namkum, Ranchi 3. Secretary, Tharkhand Rural Health Mission Society,

Department of Health, Medical Education and Family Welfare, Govt, of Iharkhand, Namkum, Ranchi

Family Wellare, Govt, of Iharkhand, Namkum, Ranch 4 Civil Surgeon, Iharkhand Rural Health Mission Society,

Department of Health, Medical Education and

Family Welfare, Govt. of Jharkhand, Namkum, Ranchi ... Respondents.

## CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH

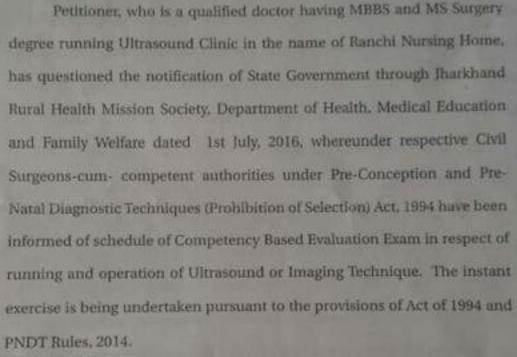
For the Petitioner

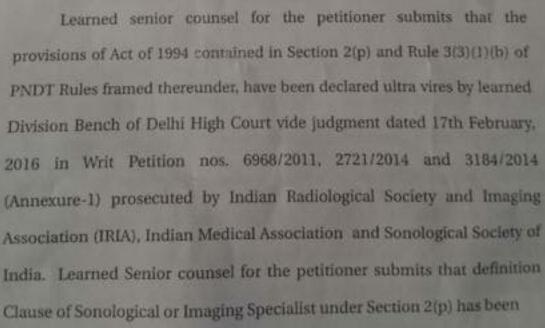
M/s Anil Kumar Sinha, St. Adv.

Ramesh Kumar, Adv.

For the Respondents : I. C. to A. G.

2/22.7.2016









held to be bad to the extent it includes persons possessing a postgraduate qualification in ultrasonography or imaging techniques because there was no such qualification recognised by MCI and the PNDT Act. The PNDT Act does not empower the statutory bodies constituted thereunder or the Central Government to devise and coin new qualification. It is submitted that Rules which required compulsory six months' training for a person destrous of setting up a Genetic Clinic/Ultrasound Clinic/Imaging Centre have also been declared ultra vices PNDT Act to that extent. Petitioner is a licensee of Ultrasound clinic and himself a registered qualified doctor. who has locus standi to assail the impugned order being undertaken by the respondent, Jharkhand Rural Health Mission Society, Department of Health, Medical Education and Family Welfare, Govt. of Iharkhand, as the provisions of law in relation thereto have already been declared ultra vires. It is also pointed out that though the said judgment has been challenged by Union of India and others in Special Leave Petition (Civil) No. 16657-16659/2016, but no interim order has been passed therein. It is submitted that the impugned exercise would therefore be a nullity in the eye of law and would unnecessarily compel the qualified doctors to undertake six months course training in 2014 and/or to face the CBE Exam as proposed by Jharkhand Rural Health Mission Society, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand,

Counsel for the State submits that instructions are required in the matter

Having regard to the position in law rendered by learned Division Bench of Delhi High Court in W. P. (C) No. 6968 of 2011 and other analogous cases vide judgment dated 17th February, 2016, the impugned action of the respondent does not appear to be backed by the authority of law as the relevant provisions have already been declared ultra vires. Therefore, pending adjudication, the proposed exercise as contemplated under Annexure-2 dated 1st July, 2016 and advertisement, Annexure-3 are stayed.

List this case accordingly after it weeks on 11th August, 2018 under the boading. The Advantoine as uniform mores, by which these, the supportables aboats positively offer their response to the mester.

Apieresh Kumar Singh,D

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