Dr. Kuldeep Chander Sharma and another ...Petitioner(s)

Through:- M/s Khawaja Siddiqui &
Surjeet Singh Andotra, Advocates

V/s

Union of India and others ...Respondent(s)

Through:- Mr. Vishal Sharma, DSGI for R-1
Mr. Amit Gupta, AAG for R-2 to 5

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

JUDGMENT

1. The petitioner No.1 is MBBS and M.S. Surgery and claims to possess an extensive professional experience of more than five decades, which includes experience of almost three decades in the field of sonography. Petitioner No.2 is also MBBS and claims to possess an experience of fifteen years in the field of sonography. The petitioners are aggrieved and have called in question notification bearing No.DHS5/PNDT/9288-99 dated 26th September, 2022 issued by respondent No.2 ["the impugned notification"], by virtue of which a decision has been taken by the respondents to conduct an examination as per the Pre-conception and Pre-natal Diagnostic Techniques (Prevention of Sex

during the last more than a decade, it can be said with certainty that the petitioners have acquired more than two years experience in the field of pre-natal diagnostic techniques. Pre-natal diagnostic techniques, as defined in Section 2(j) of 1994 Act, include all pre-natal diagnostic procedures and pre-natal diagnostic tests.

17. In the premises, I find merit in this petition and the same is, accordingly, allowed. The impugned notification insofar as it pertains to the petitioners is quashed and a declaration is issued that the petitioners being medical geneticist running their genetic clinics/ultrasound clinics for the last several years are not required to undertake any six months training or to qualify competency based assessment as specified in Schedule II of the 2014 Rules. The respondents shall, accordingly, process the cases of the petitioners for renewal/re-issue of certificate of registration in their favour provided they fulfill and comply with other requirements of the 1994 Act and the Rules framed thereunder.

(Sanjeev Kumar)
Judge

JAMMU.
25.11.2022
Vinod.

Whether the order is speaking : Yes
Whether the order is reportable: Yes

gynecologist having experience of performing atleast 20 procedures in 20 procedures in chorionic villi aspirations per vagina or per abdomen, chorionic villi biopsy, amniocentesis, cordocentesis foetoscopy, foetal skin or organ biopsy or foetal blood sampling etc., under supervision of an experienced gynaecologist in these fields.

16. This is so evident from a bare reading of Rule 3(3)(1) of 1996 Rules. Even a registered medical practitioner except the exempted class aforementioned are exempted from undertaking six months training under the 2014 Rules provided they are able to qualify the competency based assessment as specified in Schedule II. Even such medical practitioners have an option that in case they fail to clear competency based test in three attempts, they shall undertake complete six months training. Viewed from any angle and appreciating the issue in the light of clear picture emerging from reading of various sections of 1994 Act and the Rules framed thereunder, it is crystal clear that a medical geneticist is neither required to undertake any training under the 2014 Rules nor is required to qualify the competency based assessment, as specified in Schedule II of the 2014 Rules. It is also beyond any pale of doubt that a person possessing any of the medical qualifications recognized under the Indian Council Act and having experience of two years or more in the field Pre-natal Diagnostic Techniques falls within the definition of "Medical Geneticist". On the basis of documents on record and the certificates of registration of their ultrasound clinics with specific approval to carry out pre-natal diagnostic procedures therein issued by the appropriate authority from time to time

Syria and Afghanistan.

No training required for medicos with MBBS, 2-yr experience in Sonography: HC

Excelsior Correspondent

SRINAGAR, Nov 29: The High Court has held that the doctors having experience in sex selection and pre-natal diagnostic techniques in the field of Sonography and ultrasound tests are not required to go through the examination process for such practice.

The direction has been passed in various pleas filed by doctors possessing qualification of MBBS and M S Surgery respectively whereby they have called in question the notification passed by the Director Health Services deciding therein that an examination be conducted and six months training for the medicos running Sonography and Ultrasound clinics.

They have challenged the impugned notification primarily on the ground that the same is in violation of the pre-conception and pre-natal Diagnostic Techniques (Prohibition and Sex Selection) Act and seek a direction to the respondents not to put MBBS doctors having experience of two years in the field of sex selection and pre-natal diagnostic techniques to competency based test, as they are exempted and are not required to qualify such test in terms of the Act.

They claimed that they are running their ultrasound clinics and imaging centres pursuant to the registration granted by the appropriate authority under Section 19(1) of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act as such the notification is in violation of the rules.

Justice Sanjeev Kumar allowed their plea by recording that there is merit in their case and quashed the impugned notification as it pertains to the petitioner-medicos and declared that they being medical geneticist running their genetic clinics and ultrasound clinics for the last several years are not required to undertake any six months training or to qualify competency based assessment.

"The respondents shall, accordingly, process the cases of the petitioners for renewal and re-issue of certificate of registration in their favour provided they fulfill and comply with other requirements of the 1994 Act and the Rules framed there-under", Justice Kumar directed.

Court said that a medical geneticist is neither required to undertake any training nor is

(Contd on page 2 Col 5)