

2025 LiveLaw (SC) 1152

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

SURYA KANT; J., JOYMALYA BAGCHI; J.

WRIT PETITION (C) No.1327 OF 2019; NOVEMBER 17, 2025

MEERA KAURA PATEL *versus* UNION OF INDIA & ANR.

Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1994 (the 1994 Act) – Issue - A Writ Petition was filed under Article 32 of the Constitution, questioning the age criterion of 35 years and above imposed on pregnant women seeking pre-natal diagnostic/screening under the 1994 Act - Supreme Court noted that while the petitioner may not have made out a case of discriminatory treatment or violation of Articles 14, 15, and 21, the issues raised warrant consideration by the expert body - Held that the right to reproductive autonomy is a graded right (under Medical Termination of Pregnancy Act) and right of access to diagnostic facilities a regulated one (under PC-PNDT Act) - Noted that upto certain weeks, you have full autonomy - Then you have a guided autonomy - And in certain other cases beyond 24 weeks, it is the judicial intervention which has permitted the autonomy to be preserved - This is a completely different area. Here is an interface between prevention of a crime, which is rampant, because sex-selection/sex-determination becomes intrinsically connected with certain diagnostic procedures - right to access to diagnostic facilities, which is a part of Article 21 rights, is regulated to a certain extent - The Supreme Court disposed of the Writ Petition with a direction to the Central Supervisory Board, constituted under the 1994 Act, to treat the entire pleadings, including the counter affidavit and the rejoinder affidavit, as a representation-cum-material for their consideration - The Competent Authority may consider making any amendment/modification/clarification of the existing Rules or Form 'F' in public interest if the petitioner has made out a comprehensive case for the same. [Para 5-7]

For Petitioner(s) Petitioner-in-person

For Respondent(s) Ms. Aishwarya Bhati, A.S.G. Ms. Sansriti Pathak, Adv. Mr. Mayank Pandey, Adv. Mr. Pranay Ranjan, Adv. Mr. Jagdish Chandra, Adv. Mr. Sudarshan Lamba, AOR Ms. Shreyya Jain, Adv. Mr. Nitin Pavuluri, Adv. Mr. A.K. Sharma, AOR

ORDER

1. The instant Writ Petition, under Article 32 of the Constitution, has been filed by an eminent member of the Bar, who is also an Advocate-on-Record, in public interest, questioning the age criteria of 35 years and above imposed on pregnant women seeking pre-natal diagnostic/screening under the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1994 (for short, 'the 1994 Act'). The contention raised before us is that the provision of prenatal genetic testing being available only to women aged 35 years or above or those with a family history of genetic disorders is arbitrary in nature and, thus, does not satisfy the tests of Articles 14 and 21 of the Constitution. It is urged that such a restriction deprives pregnant women, below the age of 35, of timely and potentially life-altering information about foetal abnormalities, thereby infringing upon their right to health, informed reproductive choices, and dignity.

2. The Union of India through the Ministry of Health and Family Welfare has filed a counter affidavit, *inter alia*, explaining that women under 35 years of age are not completely barred and they too can access prenatal diagnostic techniques if they meet

the other conditions contained in Section 4(3) of the Act read with Form 'F' prescribed under the Rules.

3. We have gone through the substantive provision as well as Form 'F' as prescribed under the Rules with the able assistance of Ms. Aishwarya Bhati, learned Additional Solicitor General of India. The said Form contains 23 age-independent indications that allow women below 35 years of age to access prenatal diagnostic services. The Act, as appears from its legislative policy, provides necessary safeguards for all women regardless of age, including those with a history of spontaneous abortions, genetic diseases, or exposure to harmful agents.

4. The petitioner, on the other hand, has emphasized that genetic disorders and congenital anomalies occur across all ages and not just above the age of 35. She relies on empirical studies suggesting that 87.1% of anomalies occur in women under the age of 30 years. She has also relied on the recommendations made by various international medical organizations.

5. Having given our thoughtful consideration to the matter, we find that the Writ Petition raises issues that can be effectively addressed by the relevant domain experts. While the petitioner may not be in a position to make out a case of discriminatory treatment against women below 35 years of age, or of violation of their rights perceived to be guaranteed under Articles 14, 15 and 21 of the Constitution, it seems to us that the issues raised by the petitioner warrant consideration by the expert body.

6. Consequently, we dispose of this Writ Petition with a direction to the Central Supervisory Board, constituted under the 1994 Act, to treat the entire pleadings, including the counter affidavit and the rejoinder affidavit, as a comprehensive representation-cum-material for their consideration.

7. It goes without saying that if the petitioner has made out a case for any amendment/modification/clarification of the existing Rules or Form 'F', the Competent Authority may consider doing so in public interest.