

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

WP No. 1408 of 2016

(MALWA SONOLOGIST SOCIETY THRU.DR.JOHN JOSEPH AND OTHERS Vs UNION OF INDIA
THRU.MINISTRY OF HEALTH AND FAMILY WELFARE AND OTHERS)

WP/5052/2016

Dated : 17-12-2024

Shri Abhinav Dhanodkar - Advocate for the petitioner (WP 1408/2016).

Shri L.C.Patne - Advocate for the petitioner (WP No. 5052/2016).

Shri Himanshu Joshi - Dy. Solicitor General for the respondent/UoI.

Shri Bhuwan Deshmukh - Government Advocate for the respondent/State.

Shri Piyush Dubey - Advocate for the respondent/intervener.

Heard on I.A.Nos. 3612/2024 and 3613/2024 applications for intervention.

These applications have been filed by the Doctors who have completed their six months training nominated for "Fundamental Abdomino-Pelvic Ultrasonography : Level 1 and aspiring to appear in the Competency - Based Evaluation test (CBE). On account of the interim orders passed in this petition, they are unable to appear in the examination in order to register themselves for performing sonography.

Keeping in view the reasons mentioned in the application and the fact that there is no reply filed by the petitioner or respondents the intervention applications, the same is allowed. The interveners are permitted to intervene in the present writ petition.

I.A.Nos. 3612/2024 and 3613/2024 are allowed and disposed of.

Vide order dated 06.11.2023 application for vacating stay was disposed of with a direction to list the case for final hearing in the month of January, 2024. Even after lapse of about a year, the petitions could not be heard finally. Vide order dated 13.07.2016, this Court stayed the operation of Annexure P/4 dated 26.02.2015 and notification dated 23.06.2016. Thereafter, vide order dated 19.10.2023 fresh notification for conducting the CBE test in the month of November, 2023 was also stayed.

Learned counsel for the respondents and interveners submit that due to the interim orders passed by this Court, they are unable to appear in the CBE test under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 and Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014 to register themselves as Sonologist.

Shri Abhinav Dhanodkar, learned counsel for petitioners submits that the members of petitioner No.1/society are qualified for registration under the Rules of 1996 as Sonologists as each one of them was registered medical practitioner and had six months training or one year experience in sonography. Hence, this vested right accrued to them cannot be taken away by compelling them to undertake six months training as provided in the Rules of 2014. In this case, the notification was issued for conducting examination in the year 2016 and thereafter in the year 2023. But due to interim order passed by this Court, no examination could be conducted and the medical practitioners are unable to practice as sonologist. At the most, the interest of members of petitioner No.1 society can be protected by

observing that the impugned Rule 3(3)(b) of Rules of 1996 and Rules 6 & 9 of the Rules of 2014 shall not come in the their way during the pendency of the petitions and simultaneously respondents may be directed to conduct the examination Competency Based Evaluation test (CBE) in confirmation with the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014.

Considering the aforesaid, respondents are directed to complete the examination process initiated vide notification dated 12.10.2023. It is made clear that this examination will not come in the way of the members of petitioner No.1/society working as Sonologists.

List for final hearing in due course as similar issue is pending consideration before the Apex Court.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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