

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.301/2000

CEHAT & ORS.

Petitioner (s)

VERSUS

UNION OF INDIA AND ORS.

Respondent (s)

(Appln . for permission to submit addl. documents and exemption  
from filing OT and impleading party and intervention))

Date : 29-1-2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE B.N. AGRAWAL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Ms. Indira Jai Singh, Sr. Adv.  
Mr. Sanjay Parikh, Adv.  
Mr. RR Chandrachud, Adv.  
Mr. AK Misra, Adv.

For Respondent (s)  
UOI Mr. Soli J Sorabjee, Attorney General  
Mr. Manish Singhvi, Adv.  
Mr. Krishan Mahajan, Adv.  
Ms. Sushma Suri, Adv.  
Ms. Sunita Sharma, Adv.  
Mr. DS Mehra, Adv.

for States of Gujarat and Mizoram Ms. Hemantika Wahi, Adv.  
Ms. Anu Sawhney, Adv.

for State of Punjab Mrs. Jayshree Anand, Addl. Adv. Genl. Pb,  
Mr. Rajeev Sharma, Adv.

For State of Assam Ms. Asha G Nair, Adv.  
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M/s Corporate Law Group, Advs.

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for State of Sikkaim Mr. A Mariarputham, Adv.  
Ms. Aruna Mathur, Adv.  
Mr. Anurag Mathur, Adv. for  
Arputham Aruna & Co., Advs.

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for State of Kerala Mr. John Mathew, Adv.  
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for State of Arunachal Pradesh Mr. Anil Shrivastav, Adv.

for State of Karnataka Mr. Sanjay R. Hegde, Adv.  
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for State of Nagaland Mr. Kailash Vasdev, Sr. Adv.  
Mr. VD Khanna, Adv.  
Mr. Sanjay K Shandilya, Adv.

for State of MP Mr. Satish K Agnihotri, Adv.  
Mr. Sakesh Kumar, Adv.

State of Tripura Ms. Vimla Sinha, Adv.  
Mr. Rahul Singh, Adv.  
Mr. Gopal Singh, Adv.

State of UP Mr. RC Vermla, Adv.  
Mr. Mukesh Verma, Adv.  
Mr. Abhishek Chaudhary, Adv.

State of Uttranchal Mr. L.P. Naithani, Adv. Genl.  
Ms. Rachna Srivastava, Adv.  
Mr. Mahesh C Kaushik, Adv.

State of West Bengal Mr. Tara Chandra Sharma, Adv.  
Mr. Ajay Ssharma, Adv.

State of Bihar Mr. BB Singh, Adv.

State of Manipur Mr. KH Nobin Singh, Adv.

State of Meghalaya Mr. Ranjan Mukherjee, Adv.

State of HP Mr. Naresh K Sharma, Adv.

State of Pondicherry Mr. VG Pragasam, Adv.

State of Maharashtra Mr. SV Deshpande, Adv.

UT Chandigarh Ms. Kamini Jaiswal, Adv.

Andaman, Lakshadweep Mr. Ashok Bhan, Adv.  
Dadar Nagar Haveli Ms. Sunita Sharma, Adv.  
Daman and Diu, & Delhi Mr. DS Mehra, Adv.

State of Chhattisgarh Mr. Prakash Shrivastava, Adv..

State of Jharkhand Mr. Ashok Mathur, Adv.  
Mr. Rajesh Pathak, Adv.  
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For M/s WIPRO Mr. Bhargava V Desai, Adv.  
Mr. Anand Kumar, Adv.  
Ms. Sweta Kakkad, Adv.

For Inntervenor Mr. GS Chatterjee, Adv.  
Mr. Pramit K Roy, Adv.  
Mr. Feroze Ahmed, Adv.

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O R D E R

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Heard the learned counsel for the parties.

In the affidavit filed on behalf of the Central Government by the Director, Department of Family Welfare, it has been stated that the lists received from the companies and Non-Governmental Organisations have been forwarded to the relevant States/UTs for pursuing appropriate actions in the event that the organisations using the ultrasound machines/scanners are not registered under the Act. From this averment it is clear that the concerned States/UTs have received the information with regard to the purchase of the machines and, therefore, the concerned State Governments/UTs are directed to take immediate action on the basis of the said information and if such organisations are using the ultrasound machines/scanners without getting themselves registered under the Act, the said machines should be sealed and seized for the time being.

It has been further pointed out in the affidavit that The National Inspection and Monitoring Committee reported: "Under Section 19 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 there has to be an enquiry by the appropriate authority followed by the expression of satisfaction of compliance with the Act and the Rules after receiving the advice of the Advisory Committee. It is only by following this mandatory procedure that the Appropriate Authority can grant a certificate of registration to a person applying for starting a genetic clinic/lab/counseling centre. The Committee found in Chandigarh that there was a complete violation of these mandatory provisions of the Act.

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In our view, the concerned authorities are required to follow the mandatory procedure provided under the Act and should not grant any certificate or registration to any person if the form is in any way incomplete. Hence, the concerned authorities are directed to follow the mandatory procedure prescribed under the Act before granting certificate or registration to any person or organization using the said machines/scanners.

It has also been pointed out by the learned counsel for the petitioner that the Union of India/concerned authorities may also take the help of the following Associations or Members for the purpose of obtaining information about the user of the ultrasound machines/scanners:

1. INDIAN MEDICAL ASSOCIATION (IMA)
2. INDIAN RADIOLOGISTS ASSOCIATION
3. FEDERATION OF OBSTETRICS AND GYNAECOLOGISTS SOCIETY OF INDIA (FOGSI)

For the time being personal presence of the officers of the States is dispensed with.

List this matter after four weeks.

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(D.L. Chugh)  
Court Master

(K.K. Chadha)  
Court Master