

ITEM NO.42

COURT NO.9

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.301/2022

SHOBHA GUPTA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 161602/2024 - EXEMPTION FROM FILING O.T.
IA No. 173864/2022 - INTERVENTION APPLICATION)

Date : 13-09-2024 These matters were called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Ms. Shobha Gupta, Adv., Petitioner-in-person
Ms. Akshita Mishra, Adv.
Ms. Sanskriti Shakuntala Gupta, Adv.
Ms. Simranjeet Kaur, Adv.
Ms. Manasvi Negi, Adv.
Mr. Ashish Laroia, Adv.
Mr. Gaurav Meena, Adv.

For Respondent(s) Mr. Amrish Kumar, AOR
Ms. Priyanka Das, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Siddhanth Kohli, Adv.
Ms. Seema Bengani, Adv.

Mr. Samar Vijay Singh, AOR
Ms. Sabarni Som, Adv.
Mr. Fateh Singh, Adv.
Mr. Makrand Pratap Singh, Adv.
Mr. Akash Gupta, Adv.

Mr. Prashant Bhagwati, Adv.
Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.
Ms. Nidhi Bhadola, Adv.

Mr. Amod Kr. Bidhuri, Adv.
Mr. Mohd. Saquib Siddiqui, Adv.
Ms. Jyoti Sharma, Adv.
Ms. Srishti Kasana, Adv.

Mr. Amit Bidhuri, Adv.
Mr. Nishanth Patil, AOR

Mr. V. N. Raghupathy, AOR
Mr. Vishwanath P. Allannavar, Adv.

Mr. Anand Dilip Landge, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Gaurav Dhama, A.A.G.
Ms. Baani Khanna, AOR
Mr. Robin Singh, Adv.
Mr. Vivek Gaur, Adv.

Mr. Divyanshu Kumar Srivastava, AOR

Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Anupama Ngangom, Adv.
Ms. Rajkumari Divyasana, Adv.

Mr. Guntur Pramod Kumar, AOR
Ms. Perna Singh, Adv.
Mr. Dhruv Yadav, Adv.
Mr. Keshav Singh, Adv.

Mr. Azmat Hayat Amanullah, AOR
Ms. Rebecca Mishra, Adv.

Mr. Sanjay Parikh, Sr. Adv.
Ms. Srishti Agnihotri, AOR
Ms. Sanjana Grace Thomas, Adv.
Mr. D.p.singh, Adv.
Ms. Tara Elizabeth Kurien, Adv.

UPON hearing the counsel the Court made the following
O R D E R

There is no objection to allow the intervention application filed by Mr. Sabou Mathew George. It is also noted that he has been engaged in the implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (herein after referred to as

'PCPNDT Act'). Hence, the IA No.173864/2022 is allowed.

We have heard the petitioner who is a member of the Supreme Court Bar and who has appeared in person.

Learned counsel for the Union of India and learned counsel for the respondent-States of Rajasthan, Haryana, Gujarat, Maharashtra, Punjab, Manipur, Andhra Pradesh and Bihar only have appeared. The other states are not represented today.

The prayer sought for by the petitioner in this writ petition, which is filed as a public interest litigation, are as under:

“(a) Issue writ of mandamus or any other appropriate writ, order(s) or direction(s) to the “Appropriate Authorities” at all levels (District and sub-district) in the Country for strict compliance of Rule 18-A (5)(vi) of the Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 with further directions that any failure therein shall attract adverse consequences; and may also

(b) Issue directions to the appropriate authority for initiation of punishment/penalty under Section 25 of the PNDT Act against the offender whoever contravene the Rule 18-A (5)(vi); and may also

(c) pass such other and further order(s) or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

It is noted that all the respondent-States have not filed their counter affidavits or any reply to the writ petition giving the data *vis-a-vis* compliance of Rule 18-A (5)(vi) of the Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. For immediate reference, the said rule reads as under:

*"18A. Code of Conduct to be observed by
Appropriate Authorities*

X X X

*(5) All the Appropriate Authorities including
the State, District and Sub-District notified
under the Act, inter-alia, shall observe the
following conduct for Legal Action, namely:*

X X X

*(vi) take immediate action for filing appeal,
revision or other proceeding in higher courts in
case of order of acquittal within a period of
thirty days but not later than fifteen days of
receipt of the order of acquittal."*

In the circumstances, finally four weeks' time is granted to the respondent-States to file the affidavit of the Officer of the appropriate authority indicating as to in how many cases, appeals, revisions or other proceedings have been filed by the appropriate authorities before the concerned appellate Court.

The said data shall be for the period from 01.01.2015 till date. The said information shall be filed before this Court within a period of four weeks from today.

List the matter on 08.11.2024.

The reply/counter affidavits of the respondent States shall be served on the petitioner by e-mail.

It is needless to observe that if there is non-compliance of this order by the respondent-State this Court would have no option but to take an appropriate adverse action.

Learned counsel for the respective States to also serve the copy of their counter affidavit/reply on learned counsel for the respondent Union of India by e-mail.

By then, the petitioner to analyze the data submitted and make submissions on that day.

(KRITIKA TIWARI)
SENIOR PERSONAL ASSISTANT

(DIVYA BABBAR)
COURT MASTER (NSH)