

**Reserved on : 12.02.2024**  
**Pronounced on : 28.02.2024**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.1412 OF 2024 (GM - RES)

**BETWEEN:**

SHREE DEVI NURSING HOME  
AT NO.1, 2, 3 RCES COLONY  
BHO GADI 2<sup>ND</sup> STAGE  
MYSURU – 570 026.

REPRESENTED BY ITS PARTNER  
DR.DEVARAJ  
S/O LATE B.D.DEVAPPA  
AGED ABOUT 59 YEARS  
NEAR SANGAM CIRCLE  
VIJAYANAGAR 3<sup>RD</sup> STAGE,  
MYSURU – 570 017.

... PETITIONER

(BY SMT.B.V.VIDYULATHA, ADVOCATE)

**AND:**

1 . STATE OF KARNATAKA  
DEPARTMENT OF  
HEALTH AND FAMILY WELFARE  
VIKAS SOUDHA  
BENGALURU – 560 001  
REPRESENTED BY ITS

PRINCIPAL SECRETARY.

- 2 . THE DEPUTY COMMISSIONER AND  
DISTRICT REGISTRATION AUTHORITY  
MYSURU - CITY  
MYSURU – 570 001.
- 3 . TALUK HEALTH OFFICER AND LOCAL INSPECTION  
COMMITTEE, KPMEA  
JHANSI RANI LAKSHMI BAI ROAD  
CHAMARAJAPURAM MOHALLA,  
LAKSHMIPURAM MYSURU TALUK  
MYSURU DISTRICT – 570 004.

... RESPONDENTS

(BY SMT.NAVYA SHEKHAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO a) QUASH THE NOTICE DATED 19/12/2023 ISSUED BY THE R3 BEARING NO. TAA AA A / MY /11/2023-24 AT ANNEXURE-E TO THE WP, HOLDING THAT THERE IS NO AUTHORITY IN LAW TO THE RESPONDENTS TO LOCK DOWN THE PREMISES OF THE PETITIONER NURSING HOME AND ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.02.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

**ORDER**

The petitioner is before this Court calling in question a notice dated 19-12-1923 by which the Nursing Home run by the petitioner

comes to be locked and has sought a consequential direction by issuance of a writ in the nature of mandamus to hold proceedings in accordance with law.

2. *Shorn* of unnecessary details, the facts, in brief, germane are as follow:-

The petitioner is one Shree Devi Nursing Home (hereinafter referred to as 'the Nursing Home' for short). It is claimed that the petitioner is a 40 bedded nursing home registered under the provisions of the Karnataka Private Medical Establishments (Amendment) Act, 2017 ('the Act' for short). The licence so granted by the authorities under the Act is said to be valid up to 14-06-2026. It is further claimed that the petitioner runs a Ultra Sound Clinic within the premises of the Nursing Home and the said Ultra Sound Clinic is registered under the provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 ('the 1994 Act' for short). It is claimed that the Nursing Home is run by Dr. Devaraj B.D., and his wife Dr. Nalini P, who are registered before the Karnataka Medical Council under the

Karnataka Medical Registration Act, 1961. The claim is that the Nursing Home and the doctors are all registered under the appropriate provisions of law. It is further averred that the Nursing Home is being run without any complaint from any quarter whatsoever. On 19-12-2023 the 3<sup>rd</sup> respondent/Taluk Health Officer and Local Inspection Committee under the aforesaid Acts causes a surprise inspection upon the Nursing Home, finds various deficiencies, issues notice enclosing list of deficiencies and calls upon the Nursing Home to submit its reply within seven days, failing which, action would be taken in accordance with law.

3. Pending issuance of clarification, on the score that the documents seized during the search did not reveal any maintenance of records both under the Act and the 1994 Act, the Nursing Home comes to be closed by placing a lock. It is then, the petitioner is said to have got the knowledge of sex determination racket being unearthed by the authorities in the city of Mysore, as several scanning centres were inspected and records were seized. Therefore, the notice comes to be issued after the search and seizure of the documents upon the petitioner on 19-12-2023. A

reply is said to have been submitted on 21-12-2023 and pending consideration of the reply the premises is locked as observed hereinabove. It is these actions that have driven the Nursing Home to this Court in the subject petition.

4. Heard Smt. B.V. Vidyulatha, learned counsel appearing for the petitioner and Smt. Navya Shekhar, learned Additional Government Advocate appearing for the respondents.

5. The learned counsel Smt. B.V.Vidyulatha appearing for the petitioner would take this Court through the provisions of the Act, the 1994 Act and the Medical Termination of Pregnancy Act, 1971 to buttress her submission that no provision under the aforesaid Acts would permit closure of a Nursing Home by locking it, unless it is in violation of the provisions of the Act. She would, therefore, contend that if there are violations under the 1994 Act it would be open to the State to seal the scanning machine or close the scanning centre within the Nursing Home and not seize the Nursing Home itself. It is her submission that closure of Nursing Home is a drastic step, which power the State does not have, unless the

Nursing Home is not the one registered under the Act. She would submit that time was not even granted to the Nursing Home to submit its reply to the notice so issued. The scanning machine was very much available in the Nursing Home and all scanning reports are found in the scanning machine itself. Even to demonstrate that everything was in order, no breathing time was given by the State is the submission of the learned counsel. She would seek quashment of the entire proceedings and opening of Nursing Home.

6. Per-contra, the learned Additional Government Advocate Smt. Navya Shekar would vehemently refute the submissions by taking this Court through the documents filed by the State to contend that there are gross violations by the Nursing Home both under the Act; the 1994 Act and the Medical Termination of Pregnancy Act. She would contend that several surgeries are performed which are found in the record books but none of them are by qualified doctors. The doctors who run the Nursing Home are only qualified with MBBS and they have even performed surgeries without qualification. MBBS is only a basic qualification and unless they have a post-graduation or super-speciality degree, the doctors

cannot perform surgeries. The learned Additional Government Advocate would further submit that there is violation of 1994 Act as well, as the scanning machine did not contain any details of medical termination of pregnancies undertaken by the Nursing Home. Specific instances are quoted that foetus is removed of four patients which were 20 weeks, 24 weeks, 31 weeks and 29 weeks old and so on without following due process of law and these records are not even found in the scanning machine. It is, therefore, action had to be taken to plug all these scanning centres which have been running sex determination resulting in removal of female foetus. She would, therefore, submit that the petition be dismissed with exemplary costs.

7. The learned counsel for the petitioner would join the issue in contending that there were reasons for medical termination of pregnancy of four illustrations that are given. The reasons are indicated in the discharge summary itself. Insofar as scanning machine not divulging these details are concerned, the learned counsel would contend that the scanning machine was replaced recently and the old scanning machine data was not retrievable. It

would need time to retrieve the data with the help of appropriate technicians. If time is granted that also would be done. In all, the submission of the learned counsel for the petitioner is that the Nursing Home has not indulged in any act that would become contrary to any of the provisions of law projected by the State.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts are not in dispute and as such they would not require reiteration. It is a matter of record that two people run the Nursing Home, the names of whom are quoted hereinabove. Their qualification is admittedly MBBS. They do not possess either post-graduation or super-speciality degrees. It is the averment that the Nursing Home is being run for the last 28 years. The Government in order to curb sex detection in the State conducted inspection of 139 scanning centres in Mysore. One such was the petitioner. On conduct of search on 19-12-2023 several violations of law are projected to have been discovered at the time



when the search was conducted. Therefore, a notice dated 19-12-2023 comes to be issued to the petitioner. The notice reads as follows:

**“ತಾಲ್ಲೂಕು ಆರೋಗ್ಯಾಧಿಕಾರಿಗಳ ಕಛೇರಿ, ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಮೈಸೂರು**  
ಸಂಖ್ಯೆ: ತಾಆ/ಮೈ/11/2023-24 ದಿನಾಂಕ:19/12/2023

**“ನೋಟಿಸ್”**

ವಿಷಯ: ನಿಮ್ಮ ಕ್ಲಿನಿಕ್ / ಪಾಲಿ ಕ್ಲಿನಿಕ್ / ಡೆಂಟಲ್ ಕ್ಲಿನಿಕ್ / ಪ್ರಯೋಗಶಾಲೆ / ಡೇ ಕೇರ್ ಸೆಂಟರ್/ ನರ್ಸಿಂಗ್ ಹೋಂ / ಆಸ್ಪತ್ರೆಯಾದ ಅಲೋಪತಿ ಆಯುಷ್/ನ್ನು ಮಾಹಿತಿ ಮತ್ತು ದಾಖಲಾತಿಗಳನ್ನು ಸಲ್ಲಿಸುವ ಬಗ್ಗೆ.

ದಿನಾಂಕ: 18/12/2023 ಹಾಗೂ 19/12/2023 ರಂದು ನಿಮ್ಮ ಶ್ರೀದೇವಿ ನರ್ಸಿಂಗ್ ಹೋಂ ಇಲ್ಲಿಗೆ ಕೆ.ಪಿ.ಎಂ.ಇ.ಎ ನೋಡಲ್ ಅಧಿಕಾರಿಗಳು ಮತ್ತು ತಾಲ್ಲೂಕು ಆರೋಗ್ಯಾಧಿಕಾರಿಗಳು ಭೇಟಿ ನೀಡಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಈ ಕೆಳಕಂಡ ನ್ಯೂನತೆಗಳು ಕಂಡುಬಂದಿದ್ದು ದಿನಾಂಕ: 19/12/2023 ರಂದು ನೋಟಿಸ್ ಜಾರಿ ಮಾಡಲಾಗಿದ್ದು, ಈವರೆಗೆ ತಮ್ಮ ಸಮಜಾಯಿಷಿ ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ಈ ವಿಷಯವನ್ನು ಅತೀ ಗಂಭೀರವಾಗಿ ಪರಿಗಣಿಸಿದ್ದು, ಈ ರೀತಿಯ ನಿಮ್ಮ ನ್ಯೂನತೆಗಳನ್ನು ಕರ್ನಾಟಕ ಖಾಸಗಿ ವೈದ್ಯಕೀಯ ಸಂಸ್ಥೆಗಳ ಅಧಿನಿಯಮ 2007 ಮತ್ತು ನಿಯಮಾವಳಿಗಳು 2009 ರ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದರಿಂದ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮವನ್ನು ನಿಮ್ಮ ವಿರುದ್ಧ ಏಕೆ ಜರುಗಿಸಬಾರದು ಎಂಬುವುದಕ್ಕೆ ಈ ನೋಟಿಸ್ ಪತ್ರ ತಲುಪಿದ 7 ದಿನದೊಳಗೆ, ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ನಿಮ್ಮ ಸೂಕ್ತ ಸಮಜಾಯಿಷಿಯನ್ನು ನೀಡಿ ದಾಖಲಾತಿಗಳನ್ನು ಸಲ್ಲಿಸತಕ್ಕದ್ದು, ತಪ್ಪಿದಲ್ಲಿ ಕಾನೂನು ರೀತಿ ಸೂಕ್ತ ಕ್ರಮ ಜರುಗಿಸಲಾಗುವುದು.

ನ್ಯೂನತೆಗಳು:

1. ಖಾಸಗಿ ವೈದ್ಯಕೀಯ ಸಂಸ್ಥೆ ಉತ್ತಮ ಪರಿಸರದಲ್ಲಿ ಇಲ್ಲದ ಇರುವುದು.
2. ಉತ್ತಮವಾದ ಗಾಳಿ ಬೆಳಕು ಪರಿಸರಕ್ಕೆ ಲಭ್ಯವಿಲ್ಲದಿರುವುದು.
3. ಶೌಚಾಲಯದ ವ್ಯವಸ್ಥೆ ಸಾಕಷ್ಟು ಸಂಖ್ಯೆಯಲ್ಲಿ ಇಲ್ಲದಿರುವುದು.
4. ಸಂಸ್ಥೆಯು ವಿದ್ಯಾರ್ಹತೆಯುಳ್ಳ ವೈದ್ಯರನ್ನು, ವಿದ್ಯಾರ್ಹತೆಯುಳ್ಳ ಮತ್ತು ತರಬೇತಿ ಹೊಂದಿದ ಅರೆವೈದ್ಯಕೀಯ ಸಿಬ್ಬಂದಿಯನ್ನು ಹೊಂದದೆ ಇರುವುದು.

5. ವಿವಿಧ ಪ್ರಕಾರಗಳನ್ನು ನಡೆಸಲು. ಸಾಧನೆ ಸಲಕರಣೆಗಳು ಹಾಗೂ ಇತರ ಮೂಲ ಸೌಕರ್ಯಗಳಿಗಾಗಿ ಅವಶ್ಯಕವಾದ ಕಟ್ಟಡಗಳನ್ನು ಹೊಂದದೆ ಇರುವುದು.
6. ಘನ ತ್ಯಾಜ್ಯ ವಸ್ತುಗಳ ನಿರ್ವಹಣೆಯನ್ನು ಕ್ರಮಬದ್ಧವಾಗಿ ನಿರ್ವಹಿಸದೆ ಇರುವುದು.
7. ಚಿಕಿತ್ಸಾ ದಾಖಲೆಗಳ ನಿರ್ವಹಣೆಯನ್ನು ಕ್ರಮಬದ್ಧವಾಗಿ ನಿರ್ವಹಿಸದೆ ಇರುವುದು.
8. ವೈದ್ಯಕೀಯ ದೃಢೀಕರಣ ಪ್ರಮಾಣ ಪತ್ರಗಳು, ಸಂಸ್ಥೆಯಲ್ಲಿ ರೋಗಿಗಳಿಗೆ ಹಾಗೂ ಸಾಮಾನ್ಯ ಜನರ ತಿಳುವಳಿಕೆ ಬರುವಂತೆ ಸೂಚನಾ ಫಲಕದಲ್ಲಿ ಪ್ರದರ್ಶಿಸದೆ ಇರುವುದು.
9. ಶಸ್ತ್ರ ಚಿಕಿತ್ಸಾ ಕೊಠಡಿ, ಹರಿಗೆ ಕೊಠಡಿಯಲ್ಲಿ ಸ್ವಚ್ಛತೆ, ಸ್ಥಳಾವಕಾಶ, ಸೂಕ್ತ ಸಲಕರಣೆಗಳು ಇಲ್ಲದಿರುವುದು.
10. ಎಕ್ಸ್‌ರೇ, ಲ್ಯಾಬ್, ಇ.ಸಿ.ಜಿ ಗಳ ಸೌಲಭ್ಯವಿಲ್ಲದಿರುವುದು.
11.
  1. ಕಾರ್ಪೊರೇಷನ್ ಟ್ರೇಡ್ ಲೈಸೆನ್ಸ್ (ವೃತ್ತಿ ಪರವಾನಗಿ ಪತ್ರ)
  2. ಸೇವೆಗಳಿಗೆ ವಿಧಿಸುವ ಚಾರ್ಜ್ ಪಟ್ಟಿ.
  3. ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪರಿಸರ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿಯಿಂದ ನೀಡುವ ಪತ್ರ.
  4. ಪಿ.ಸಿ. ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ ಲೈಸೆನ್ಸ್.
  5. ವ್ಯದ್ಯರು, ಅರೆವೈದ್ಯಕೀಯ ಸಿಬ್ಬಂದಿಗಳ ಪ್ರಮಾಣ ಪತ್ರ - ಇತರೆ ದಾಖಲೆಗಳನ್ನು ಒದಗಿಸಿರುವುದಿಲ್ಲ.
  6. ಪರವಾನಿಗೆ ನವೀಕರಣ ಹೊಂದದೆ ಇರುವುದು.
  7. **Expired suture material labour room** ನಲ್ಲಿ ಲಭ್ಯವಾಗಿದೆ.
  8. ದಾಖಲಾತಿ ವಿವರ ನೀಡಿರುವುದಿಲ್ಲ (**Inpatient and Outpatient**)
  9. **MTP** ಸೇವೆ ಪಡೆದಿರುವ ಮಹಿಳೆಯರ ದಾಖಲಾತಿ ವಿವರದ **Case sheet** ನೀಡಿರುವುದಿಲ್ಲ.

ಗೆ,  
ಡಾ: ಬಿ.ಡಿ.ದೇವರಾಜ್,  
ಶ್ರೀದೇವಿ ನರ್ಸಿಂಗ್ ಹೋಂ  
ಬೋಗಾದಿ, ಮೈಸೂರು.

ಸಹಿ/-  
19.12.2023  
ತಾಲ್ಲೂಕು ಆರೋಗ್ಯಾಧಿಕಾರಿಗಳು  
ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಮೈಸೂರು ಜಿಲ್ಲೆ  
ಕೆ.ಪಿ.ಎಂ.ಇ.ಎ. ಸ್ಥಳೀಯ ಪ್ರಾಧಿಕಾರ  
ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಮೈಸೂರು ಜಿಲ್ಲೆ.

ಪ್ರತಿಯನ್ನು ವಂದನೆಗಳೊಂದಿಗೆ ಮಾಹಿತಿಗಾಗಿ ಸಲ್ಲಿಸಿದೆ:

1. ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಹಾಗೂ ಆಧ್ಯಕ್ಷರು, ಕೆ.ಪಿ.ಎಂ.ಇ.ಎ., ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು ಜಿಲ್ಲೆ, ಮೈಸೂರು ರವರಿಗೆ.
2. ಮಾನ್ಯ ಜಿಲ್ಲಾ ಆರೋಗ್ಯ ಮತ್ತು ಕುಟುಂಬ ಕಲ್ಯಾಣಾಧಿಕಾರಿಗಳು, ಮೈಸೂರು ಜಿಲ್ಲೆ, ಮೈಸೂರು ರವರಿಗೆ.

3. ಮಾನ್ಯ ನೋಡಲ್ ಅಧಿಕಾರಿಗಳು, ಕೆ.ಪಿ.ಎಂ.ಇ. ವಿಭಾಗ, ಮೈಸೂರು ಜಿಲ್ಲೆ, ಮೈಸೂರು ರವರಿಗೆ.
4. ಕಛೇರಿ ಪ್ರತಿ.
5. ಸಂಬಂಧಪಟ್ಟ ನರ್ಸಿಂಗ್ ಹೋಂ ವೈದ್ಯರಿಗೆ.”

(Emphasis added)

The notice also appended several violations of law by the Nursing Home. The detailed notice reads as follows:

“ತಮ್ಮ ಸಂಸ್ಥೆ/ಆಸ್ಪತ್ರೆಗೆ ದಿನಾಂಕ: ರಂದು ಪಿ.ಸಿ. ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾರ್ಯಕ್ರಮದ ಪರಿಶೀಲನೆಗಾಗಿ ಜಿಲ್ಲಾ/ರಾಜ್ಯ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಅನಿರೀಕ್ಷಿತ ಭೇಟಿ ನೀಡಿದಾಗ ಈ ಕೆಳಕಂಡ ನ್ಯೂನ್ಯತೆಗಳು ಕಂಡು ಬಂದಿರುತ್ತವೆ. ಈ ಬಗ್ಗೆ ತಾವು ವೈಯಕ್ತಿಕವಾಗಿ ಗಮನಹರಿಸಿ ಈ ಪತ್ರ ತಲುಪಿದ ಒಂದು ವಾರದೊಳಗಾಗಿ ನ್ಯೂನ್ಯತೆಗಳನ್ನು ಸರಿಪಡಿಸಿಕೊಂಡು ಕೈಗೊಂಡ ಕ್ರಮದ ವರದಿಯನ್ನು ಈ ಕಛೇರಿಗೆ ಸಲ್ಲಿಸಲು ತಿಳಿಸಿದೆ. ತಪ್ಪಿದಲ್ಲಿ ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯನ್ವಯ ಕ್ರಮ ವಹಿಸಲಾಗುವುದು.

ಗರ್ಭಧಾರಣಾ ಪೂರ್ವ ಮತ್ತು ಪ್ರಸವ ಪೂರ್ವ ಪತ್ತೆ ಹಚ್ಚುವ ತಂತ್ರಗಳು (ಪಿ.ಸಿ & ಪಿ.ಎನ್.ಡಿ.ಟಿ) (ಲಿಂಗ ಆಯ್ಕೆ ನಿಷೇಧ) ಕಾಯ್ದೆ 1994 ಅನ್ವಯ ಈ ಕೆಳಕಂಡ ಅಕ್ಷೇಪಣೆಗಳಿಗೆ ಸಮರ್ಪಕ ಸಮಜಾಯಿಷಿಯನ್ನು ನೀಡುವುದು.

- 1) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ ಕಾಯ್ದೆಯ ಕಲಮು 4 ಮತ್ತು ಉಪಕಲಮು (1), (2) (3) (4) ಮತ್ತು (5) ರಂತೆ ಪ್ರಸವ ಪೂರ್ವ ಪತ್ತೆ ತಂತ್ರ ವಿಧಾನಗಳನ್ನು ಉಪಯೋಗಿಸಲು ಅಥವಾ ಕೈಗೊಳ್ಳಲು ಅರ್ಹತೆ ಹೊಂದಿದ ಯಾರೇ ವ್ಯಕ್ತಿಯು, ಯಾವುದೇ ಷರತ್ತುಗಳನ್ನು ಪೂರೈಸಲಾಗಿದೆ ಎಂಬುದನ್ನು ನೀವು ಲಿಖಿತವಾಗಿ ದಾಖಲಿಸದೆ ಮೇಲ್ಕಾಣಿಸಿದ ಕಲಂ ಮತ್ತು ಉಪಕಲಂಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿರುತ್ತೀರಿ ಎಂದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 2) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ ಕಾಯ್ದೆಯ ಕಲಮು 5 ರ ಅನ್ವಯ ಗರ್ಭಿಣಿ ಮಹಿಳೆಯ ಲಿಖಿತ ಸಮ್ಮತಿ ಪಡೆಯದೆ ಉಪಕಲಮು 1 (ಎ) (ಬಿ) (ಸಿ) ಮತ್ತು 2 ನ್ನು ಉಲ್ಲಂಘಿಸಿರುತ್ತೀರಿ ಎಂದು ಕಂಡುಬಂದಿರುತ್ತಿದೆ.
- 3) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ ಕಾಯ್ದೆಯ ಕಲಂ 6 ರಂತೆ ಲಿಂಗ ನಿರ್ಧರಣೆಯನ್ನು ನಿಷೇಧಿಸಲಾಗಿದ್ದರೂ ತಾವೂ ಲಿಂಗ ನಿರ್ಧರಣೆಯನ್ನು ಮಾಡಿ, ಉಪಕಲಮು (ಎ) (ಬಿ) (ಸಿ) ಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುತ್ತೀರಿ ಎಂದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

- 4) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ ಕಾಯ್ದೆಯ ಕಲಂ 18 ಮತ್ತು ಉಪಕಲಮು (1) ರಂತೆ ಅನುವಂಶೀಯತೆಯ ಸಲಹಾ ಕೇಂದ್ರಗಳು ಅನುವಂಶೀಯತೆ ಪ್ರಯೋಗಾಲಯಗಳ ಮತ್ತು ಅನುವಂಶೀಯತೆ ಚಿಕಿತ್ಸಾಲಯಗಳ ನೊಂದಣಿ ಮಾಡದೆ ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 5) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ಕಲಂ 19 ಉಪಕಲಮು 4 ರಂತೆ ನೊಂದಣಿ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ತಮ್ಮ ಸಂಸ್ಥೆಯ ವ್ಯವಹಾರದ ಸ್ಥಳದಲ್ಲಿ ಎದ್ದು ಕಾಣುವಂತೆ ಪ್ರದರ್ಶಿಸದೇ ಇಲ್ಲದಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 6) ತಾವು ಪಿ.ಸಿ & ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಪ್ರಸವ ಪೂರ್ವ ಲಿಂಗ ನಿರ್ಧರಣೆಗೆ ಸಂಬಂಧಿಸಿದ ಜಾಹೀರಾತಿನ ನಿಷೇಧವಿದ್ದರೂ ತಾವು ಕಲಂ 22 ಉಪಕಲಮು (1) ಮತ್ತು (2) ನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 7) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ಕಲಂ 29 ರ ಉಪಕಲಮು (1) ಮತ್ತು (2) ನ್ನು ಮತ್ತು ನಿಯಮ 9 ಉಪನಿಯಮ (1) (2) (3) (4) (5) (6) (7) ಮತ್ತು (8) ರಂತೆ, ದಾಖಲಾತಿಗಳನ್ನು ನಿರ್ವಹಣೆ ಮಾಡದೆ ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 8) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ನಿಯಮ 8 ರ ಉಪಕಲಮು (1) ರಂತೆ ನೊಂದಣಿಯ ನವೀಕರಣವನ್ನು ಮಾಡದೆ ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.
- 9) ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ನಿಯಮ 10 ರಂತೆ ಜನನ ಪೂರ್ವ ಪತ್ತೆ ತಂತ್ರ ವಿಧಾನ ಪ್ರಕ್ರಿಯೆಗಳಿಗಾಗಿ ಷರತ್ತುಗಳನ್ನು ಉಪನಿಯಮ (1) ಮತ್ತು (1ಎ) ರಂತೆ ಗರ್ಭಿಣಿ ಸ್ತ್ರೀಯಿಂದ ಆಕೆಗೆ ಗೊತ್ತಿರುವ ಭಾಷೆಯಲ್ಲಿ ತಿಳಿಸಿರುವುದಿಲ್ಲ.
- 10) ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ನಿಯಮ 13 ರಂತೆ ನೌಕರರಲ್ಲಿ ಸ್ಥಳದಲ್ಲಿ ಅಥವಾ ಸಾಧನ ಸಲಕರಣೆಗಳಲ್ಲಿ ಆದ ಬದಲಾವಣೆಯ ಬಗ್ಗೆ ಜಿಲ್ಲಾ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಿಗೆ ತಿಳಿಸದೇ ಇದ್ದು, ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.
- 11) ತಾವು ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ನಿಯಮ 17 ರಂತೆ ತಮ್ಮ ಸಂಸ್ಥೆಯಲ್ಲಿ ಭ್ರೂಣದ (ಗರ್ಭಸ್ಥ ಶಿಶುವಿನ) ಲಿಂಗವನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದು ಕಾನೂನಿನ ಮೇರೆಗೆ ನಿಷೇಧಿಸಲಾಗಿದೆ

**ಎಂಬ ಸೂಚನೆಯನ್ನು ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿಗಾಗಿ ಇಂಗ್ಲೀಷಿನಲ್ಲಿ ಮತ್ತು ಸ್ಥಳೀಯ ಭಾಷೆಗಳಲ್ಲಿ ತಮ್ಮ ಸಂಸ್ಥೆಯ ಆವರಣಗಳಲ್ಲಿ ಎದ್ದುಕಾಣುವಂತೆ ಪ್ರದರ್ಶಿಸದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.**

- 12) ನಿಯಮ 17 ಉಪ ನಿಯಮ (2) ರಂತೆ ಸ್ಯಾನಿಂಗ್ ಕೊಠಡಿಯಲ್ಲಿ ಪಿ.ಸಿ ಮತ್ತು ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ಪುಸ್ತಕ ಇಟ್ಟಿರುವುದಿಲ್ಲ.
- 13) ನಿಯಮ 18 ಉಪ ನಿಯಮ (VII) ರಂತೆ ತಮ್ಮ ಸಂಸ್ಥೆಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವ ಆತನ/ಆಕೆಯ ಹೆಸರನ್ನು ಮತ್ತು ಪದನಾಮವನ್ನು (ಹುದ್ದೆಯ ಹೆಸರನ್ನು) ಆತನು/ಆಕೆಯು ಧರಿಸಿದ ಉಡುಪುಗಳ ಮೇಲೆ ಸ್ಪಷ್ಟವಾಗಿ ಕಾಣುವಂತೆ ಪ್ರದರ್ಶಿಸಿರುವುದಿಲ್ಲದೆ ಇರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.
- 14) ವೈದ್ಯರು ಭೇಟಿ ನೀಡುವ ವೇಳಾಪಟ್ಟಿಯನ್ನು ಪ್ರದರ್ಶಿಸಿರುವುದಿಲ್ಲ.
- 15) ಎಂಪ್ಲಾನ್‌ಲ್ ಮಾಡಿಕೊಂಡಿರುವ ವೈದ್ಯರ ಹೆಸರು, ಅರ್ಹತಾ ಪತ್ರಗಳನ್ನು ಪ್ರದರ್ಶಿಸಿರುವುದಿಲ್ಲ.
- 16) ಎಂಪ್ಲಾನ್‌ಲ್ ಮಾಡಿಕೊಂಡಿರದೇ ಇರುವ ವೈದ್ಯರಿಂದ ಸ್ಯಾನಿಂಗ್ ಮಾಡಿಸಿರುತ್ತೀರಿ ಎಂದು ತಿಳಿದು ಬಂದಿರುತ್ತದೆ.
- 17) ಓ.ಬಿ.ಜಿ ಸ್ಯಾನಿಂಗ್ ಮಾಡಿಸಿಕೊಂಡಿರುವವರ ರಿಜಿಸ್ಟರ್ ಪುಸ್ತಕದಲಿ ಸರಿಯಾದ ಪೂರ್ಣ ಮಾಹಿತಿ ಇರುವುದಿಲ್ಲ.
- 18) ತಾವು ನೀಡುತ್ತಿರುವ ಸೌಲಭ್ಯಗಳಿಗೆ ಭರಿಸುವ ಶುಲ್ಕದ ಪಟ್ಟಿಯನ್ನು ಫಲಕದಲ್ಲಿ ಪ್ರದರ್ಶಿಸದೆ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 19) ತಮ್ಮ ಕ್ಲಿನಿಕ್ / ಸ್ಯಾನಿಂಗ್ / ಸೆಂಟರ್‌ನಲ್ಲಿ ಅವಶ್ಯಕವಾಗಿ ಬೇಕಾಗಿರುವ ಸಲಕರಣೆಗಳು, ಉಪಕರಣಗಳನ್ನು ಹೊಂದದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 20) ತಮ್ಮ ಕ್ಲಿನಿಕ್ / ಸ್ಯಾನಿಂಗ್ / ಸೆಂಟರ್‌ನಲ್ಲಿ ರೋಗಿಗಳಿಗೆ ಸೂಕ್ತ ಸೇವೆ ಕೊಡಲು ಅವಶ್ಯಕವಾದ ಕಟ್ಟಡ, ಗಾಳಿ, ಬೆಳಕು ಇಲ್ಲದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.
- 21) ಶೌಚಾಲಯದ ವ್ಯವಸ್ಥೆ ಸರಿಯಾಗಿ ಇಲ್ಲದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

22) ಇತರೆ:- ಇಮೊಜನ್ಸ್ ಹಾಗೂ ಸ್ಟ್ಯಾನಿಂಗ್ ಮಾಡಿಸಿಕೊಂಡಿರುವ ರೋಗಿಯ ವ್ಯಕ್ತಿಯು ಗರ್ಭಿಣಿ ಸ್ತ್ರೀಯ ಮಾಹಿತಿಗಳನ್ನು ಸ್ಟ್ಯಾನಿಂಗ್ ಮಿಷನ್‌ನಲ್ಲಿ ಸೇವೆ ಮಾಡಿರುವುದಿಲ್ಲ (2 ವರ್ಷದ ಮಾಹಿತಿ)

ಮೇಲ್ಕಾಣಿಸಿದ ಎಲ್ಲಾ ನ್ಯೂನತೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ಪಿ.ಸಿ. & ಪಿ.ಎನ್.ಡಿ.ಟಿ. ಕಾಯ್ದೆಯ ಕಲಂ 20(1), (2) ಮತ್ತು (3) ರಂತೆ ತಮ್ಮ ಸ್ಟ್ಯಾನಿಂಗ್ ಸೆಂಟರ್/ ಕ್ಲಿನಿಕ್ / ಲ್ಯಾಬೋರೇಟರಿಯ ನೊಂದಣಿಯ ರದ್ದಿಯಾತಿ ಅಥವಾ ಅಮಾನತು ಏಕೆ ಮಾಡಬಾರದು? ಎಂಬುದಕ್ಕೆ 7 ದಿನಗಳೊಳಗೆ ಉತ್ತರ ನೀಡಲು ಆದೇಶಿಸಲಾಗಿದೆ.

ಸಹಿ/-

19/12/2023

ರಾಜ್ಯ /ಜಿಲ್ಲಾ ಸ್ವಚ್ಛತೆ ಪ್ರಾಧಿಕಾರ,  
ಗರ್ಭಧಾರಣಾ ಮತ್ತು ಪ್ರಸವ ಪೂರ್ವ ಪತ್ತೆ ತಂತ್ರವಿಧಾನಗಳ  
(ಲಿಂಗ ಆಯ್ಕೆಯ ನಿಷೇಧ) ಅಧಿನಿಯಮ 1994.”

(Emphasis added)

The result of inspection and non-divulging of documents is the sealing of Nursing Home. The doctors of the Nursing Home submit a representation on 21-12-2023 which reads as follows:

“ಇಂದ,

ಡಾ. ಡಿ. ದೇವರಾಜ್  
ಶ್ರೀದೇವಿ ನರ್ಸಿಂಗ್ ಹೋಂ  
ಬೋಗಾದಿ, ಮೈಸೂರು

ಇವರಿಗೆ.

ಮಾನ್ಯ ತಾಲೂಕು ಆರೋಗ್ಯಾಧಿಕಾರಿಗಳು  
ಮೈಸೂರು ತಾಲ್ಲೂಕು  
ಮೈಸೂರು.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ತಮ್ಮ ದಿನಾಂಕ 19/12/2023 ನೋಟೀಸಿಗೆ ಉತ್ತರ

ಉಲ್ಲೇಖ: ಸಂಖ್ಯೆ: ತಾಆಅಮೈ/11/2023-24

ಮೇಲ್ಕಂಡ ನಾನು ಶ್ರೀದೇವಿ ನರ್ಸಿಂಗ್ ಹೋಂ ಇದರ ಮುಖ್ಯಸ್ಥನಾಗಿದ್ದು, ನಮ್ಮ ಸಂಸ್ಥೆಗೆ, 2004 ರಿಂದಲೂ ಕೆ ಪಿ ಎಂ ಇ, ಪರವಾನಿಗೆ ಇದ್ದು, ನಾವು ಪರವಾನಿಗೆಯನ್ನು ಕಾಲದಿಂದ ಕಾಲಕ್ಕೆ ಕಾನೂನು ರೀತಿಯಲ್ಲಿ ನವೀಕರಿಸುತ್ತೇವೆ. ಪ್ರಸ್ತುತ 2024 ನೇ ಇಸವಿಯವರೆಗೆ ನಮ್ಮ ಪರವಾನಿಗೆ ನವೀಕರಿಸಲ್ಪಟ್ಟಿದ್ದು, ಇದುವರೆಗೂ ನಾವು ಯಾವುದೇ ಕಾನೂನು ಮೀರದೆ ನಮ್ಮ ಸಂಸ್ಥೆಯನ್ನು ಮುನ್ನಡೆಸಿರುತ್ತೇವೆ.

ಪ್ರಸ್ತುತ ನೀವು ನನಗೆ ನೀಡಿರುವ ನೋಟೀಸನ್ನು ನಾನು ಓದಿ ತಿಳಿದುಕೊಂಡಿರುತ್ತೇನೆ. ತಾವು ನೋಟೀಸಿನಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ನಮ್ಮ ಸಂಸ್ಥೆಯಿಂದ ಯಾವುದೇ ಕಾನೂನು ಉಲ್ಲಂಘನೆ ಆಗಿರುವುದಿಲ್ಲ. ತಾವು ನಮಗೆ ಮೊದಲೇ ತಿಳಿಸದೇ ದಿಢೀರನೆ ಬಂದು ಪರಿಶೀಲನೆ ಮಾಡಿರುವ ಕಾರಣ, ಮತ್ತು ನಮಗೆ ರೋಗಿಗಳ ಆರೈಕೆ ಆಧ್ಯವಾದಕಾರಣ, ತಮ್ಮ ಪರಿಶೀಲನೆ ಸಮಯದಲ್ಲಿ ನಾವು ತಮಗೆ ನಮ್ಮ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳನ್ನು ನೀಡಿ ಸಹಕರಿಸಲು ಸಾಧ್ಯವಾಗಿರುವುದಿಲ್ಲ.

ತಮ್ಮ ನೋಟೀಸಿನಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ತಾವು 18/3/2023 ಹಾಗೂ 19/3/2023 ರಂದು ಪರಿಶೀಲನೆ ಮಾಡಿರುವುದು ಸತ್ಯಕ್ಕೆ ದೂರವಾಗಿರುತ್ತದೆ.

ಈ ಸಂದರ್ಭದಲ್ಲಿ ತಾವು ನಮಗೆ ಸೂಕ್ತ ಸಮಯಾವಕಾಶ ನೀಡದೆ, ನಮ್ಮ ಸಂಸ್ಥೆಗೆ ಬೀಗಮುದ್ರೆ ಹಾಕಿರುವುದರಿಂದ ತಮ್ಮ ನ್ಯೂನತೆ ಪಟ್ಟಿಗೆ ಈ ಕೆಳಕಂಡಂತೆ ಉತ್ತರಿಸಲಾಗಿದೆ;

೧) ತಾವು ಹೇಳಿರುವಂತೆ ನಮ್ಮ ಸಂಸ್ಥೆಯಲ್ಲಿ ವಿಉದ್ಯಾರ್ಹತೆಯುಳ್ಳ ವೈದ್ಯರು ಮತ್ತು ತರಬೇತಿ ಹೊಂದಿದ ಸಿಬ್ಬಂದಿಯ ವಿಷಯ ಸತ್ಯಕ್ಕೆ ದೂರವಾಗಿದ್ದು, ಅದಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ದಾಖಲೆಗಳನ್ನು ನಾವು ಕೆ ಪಿ ಎಂ ಇ ಪರವಾನಿಗೆ ನವೀಕರಣದ ವೇಳೆ ನೀಡಲಾಗಿದೆ ಹಾಗೂ ತಾವು ನಮ್ಮ ಸಂಸ್ಥೆಗೆ ಹಾಕಿರುವ ಬೀಗಮುದ್ರೆ ತೆಗೆದು ನಾಮಗೆ ಕಾಲಾವಕಾಶ ನೀಡಿದಲ್ಲಿ ಮತ್ತೊಮ್ಮೆ ಎಲ್ಲಾ ಸೂಕ್ತ ದಾಖಲೆಗಳನ್ನು ತಮಗೆ ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೨) ಘನತ್ಯಾಜ್ಯ ವಸ್ತುಗಳ ನಿರ್ವಹಣೆಗೆ ಸಂಬಂಧಿಸಿ ನಾವು ಶ್ರೀ ಕಾನ್ಸಲ್ಟೆನ್ಸಿ ಇವರೊಂದಿಗೆ ಒಂದಂಬಡಿಕೆ ಮಾಡಿಕೊಂಡಿದ್ದು, ಸದರಿ ದಾಖಲೆಗಳು ಸಂಸ್ಥೆಯ ಒಳಗಿದ್ದು, ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೩) ಚಿಕಿತ್ಸೆಯ ದಾಖಲೆಗಳನ್ನು ಸರಿಯಾಗಿ ನಿರ್ವಹಿಸದಿರುವ ವಿಷಯ ಸತ್ಯಕ್ಕೆ ದೂರವಾಗಿದ್ದು ಎಲ್ಲಾ ದಾಖಲೆಗಳು ಸಮರ್ಪಕವಾಗಿದ್ದು, ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದು ಅನುವು ಮಾಡಿಕೊಟ್ಟ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೪) ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪರಿಸರ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ ನೀಡಿರುವ ಪಾತ್ರ ಸಂಸ್ಥೆಯ ಒಳಗಿದ್ದ ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದು ಅನುವು ಮಾಡಿಕೊಟ್ಟ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೫) ವೈದ್ಯ ಹಾಗೂ ಅರೆವೈದ್ಯ ಸಿಬ್ಬಂದಿಗಳ ಪ್ರಮಾಣಪತ್ರಗಳು ಕೆ ಪಿ ಎಂ ಇ ಪರವಾನಿಗೆ ನವೀಕರಣದ ವೇಳೆ ನೀಡಲಾಗಿರುತ್ತದೆ, ಮತ್ತು ಪ್ರಸ್ತುತ ಪ್ರತಿಗಳು ಸಂಸ್ಥೆಯ ಒಳಗಿರುವ ಕಾರಣ ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದು ಅನುವು ಮಾಡಿಕೊಟ್ಟ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೬) ಅವಧಿಮೀರಿದ ವಸ್ತುಗಳು ದಿನನಿತ್ಯ ಬಳಕೆ ವಸ್ತುಗಳಾಗಿರದೇ, ಅವುಗಳನ್ನು ಬಳಸುವ ಸಮಯಕ್ಕೆ ಪರಿಶೀಲಿಸಲಾಗುತ್ತದೆ, ಮತ್ತು ಅವುಗಳನ್ನು ಸೂಕ್ತವಾಗಿ ಘನಾ ತ್ಯಾಜ್ಯ ವಸ್ತುಗಳ ಜೊತೆ ವಿಲೇವಾರಿ ಮಾಡಲಾಗುತ್ತದೆ.

೭) ದಾಖಲಾತಿವಹಿ, ಸ್ಥಾನ ಪಲ್ಲಟವಾಗಿದ್ದು, ಸಂಸ್ಥೆಯ ಒಳಗೆ ಇದ್ದು ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದು ಅನುವು ಮಾಡಿಕೊಟ್ಟ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

೮) **MTP** ಮಹಿಳೆಯರ ದಾಖಲಾತಿ ವಿವರ ಹಾಗೂ **Case Sheet** ಸ್ಥಾನಪಲ್ಲಟವಾಗಿದ್ದು ತಾವು ಬೀಗಮುದ್ರೆ ತೆಗೆದು ಅನುವು ಮಾಡಿಕೊಟ್ಟ ತಕ್ಷಣ ಅವುಗಳನ್ನು ಒದಗಿಸಲು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.

ನಮ್ಮ ಸಂಸ್ಥೆ 1996 ನೇ ಇಸವಿಯಲ್ಲಿ ಚಿಕ್ಕದಾಗಿ ಪ್ರಾರಂಭವಾಗಿ ಅಂದಿನಿಂದ ಸುತ್ತಮುತ್ತಣ ಹಳ್ಳಿಗಳ ಅನೇಕ ರೋಗಿಗಳಿಗೆ ಸಾಧ್ಯವಾದಷ್ಟು ಉತ್ಕೃಷ್ಟ ಮತ್ತು ಕೈಗೊಂಡು ವೈದ್ಯಕೀಯ ಸೇವೆಗಳನ್ನು ನೀಡುತ್ತಾ ಬಂದಿದ್ದು, ಪ್ರಸ್ತುತ ವಿಳಾಸಕ್ಕೆ 2004 ರಲ್ಲಿ ಈ ಸಂಸ್ಥೆಯನ್ನು ಸ್ಥಳಾಂತರಿಸಿದ್ದು ಅಂದಿನಿಂದ ಇಂದಿನವರೆಗೆ, ಯಾವುದೇ ಚಿಕ್ಕ ಅಪಾದನಗೂ ಅವಕಾಶ ಇಲ್ಲದಂತೆ ಸಂಸ್ಥೆ ನಡೆಸಿಕೊಂಡು ಬಂದಿರುತ್ತೇವೆ.

ನಮ್ಮ ಸಂಸ್ಥೆಯು ಕೋವಿಡ್ ಸಂದರ್ಭದಲ್ಲಿ ಸರ್ಕಾರಕ್ಕೆ ಸಂಪೂರ್ಣ ಸಹಕಾರ ನೀಡಿದ್ದು, ಆ ಘೋರ ಸನ್ನಿವೇಶದಲ್ಲಿ, ನಮ್ಮ ಸಂಸ್ಥೆಯ ಎಲ್ಲಾ ಸಿಬ್ಬಂದಿಗಳು ಪ್ರಾಣದ ಹಂಗು ತೊರೆದು ಸೇವೆ ಮಾಡಿರುವುದನ್ನು ಈ ಸಂದರ್ಭದಲ್ಲಿ ತಮ್ಮ ಗಮನಕ್ಕೆ ತರಲು ಇಚ್ಛಿಸುತ್ತೇನೆ.

ನಮ್ಮ ಸಂಸ್ಥೆಯಲ್ಲಿ ಸುಮಾರು 40 ಸಿಬ್ಬಂದಿಗಳು ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ತಮ್ಮ ತಪ್ಪು ಗ್ರಹಿಕೆಯ, ಶಿಸ್ತಿನ ಕ್ರಮದಿಂದ, 40 ಸಂಸಾರಗಳಿಗೆ ಮತ್ತು ಸುತ್ತ ಹಳ್ಳಿಗಳ ಸಾವಿರಾರು ಬಡರೋಗಿಗಳಿಗೆ ತುಂಬಲಾರದ ನಷ್ಟ ಉಂಟಾಗುತ್ತಿದೆ.



ನಾನು ಮತ್ತು ನಮ್ಮ ಸಂಸ್ಥೆಯ ಎಲ್ಲಾ ಸಿಬ್ಬಂದಿ ತಮ್ಮ ಎಲ್ಲಾ ಪರಿಶೀಲನೆಗಳಿಗೆ ಪೂರ್ಣ ಸಹಕಾರ ಒದಗಿಸಲು ಸಿದ್ಧರಿದ್ದು, ತಾವು ನಮ್ಮ ಸಂಸ್ಥೆಗೆ ತಪ್ಪು ಗ್ರಹಿತೆಯಿಂದ ಹಾಕಿರುವ ಬೀಗಮುದ್ರೆಯನ್ನು ತೆರವುಮಾಡಿ ನಮಗೆ ನ್ಯಾಯ ಒದಗಿಸಬೇಕಾಗಿ ಪ್ರಾರ್ಥನೆ.”

*(Emphasis added)*

It was pleaded that if lock of the Nursing Home is opened, they would divulge all the documents and completely co-operate with the investigation. This Court on the plea that all the documents are inside the Nursing Home permitted the doctors of the Nursing Home to take the documents in the presence of the State officials. The order dated 23-01-2024 passed by this court reads as follows:

*"The issue in the lis relates to the faulty maintenance of records with regard to certain offences under the Prenatal Diagnostic Techniques (Regulations and Prevention of Misuse) Act, 1957 and the Karnataka Private Medical Establishments Act, 2007. The hospital premise is seized on an inspection being made and the petitioner not been able to produce the records, as was sought for by the State.*

*Learned counsel appearing for the petitioner Smt.B.V.Vidyulatha would submit that all records are inside the hospital premises and the hospital premises is locked. If the lock would be open and the hospital be permitted to run, all the records can be given to the respondent - State.*

*Learned AGA would object to opening of the hospital and permit to running of the hospital. That would accede to the request of the petitioner that the officers of the State shall accompany the petitioner and the petitioner shall secure all the records that are their in the hospital premises, if any, which would enable them to furnish any answer to the allegations made in the present proceedings.*

*The State also shall note down the records that are secured by the petitioner.*

*List this matter on 29.01.2024 in the fresh matters list."*

Pursuant to the aforesaid order, the documents are said to be in place. Whether they are in place or not is what is required to be enquired into. According to the State the violations under the 1971 Act are as follows:

**"VIOLATIONS UNDER THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971**

*11. Insofar as the Original MTP register produced is concerned, the gestational age of the foetus finds no mention. However, when F-forms were seized and scrutinised, the gestational period at which these terminations were done, came to light. Out of which, some illustrative examples are provided below:*

<i>Sl. No.</i>	<i>Patient</i>	<i>Procedure</i>	<i>Doctor</i>	<i>Gestation period and comment</i>
<i>1</i>	<i>Ms. Chandana, 29 years</i>	<i>Medical termination of pregnancy</i>	<i>Dr. Nalini</i>	<i>Although the MTP Register maintained does not disclose the gestation period, a scan report from the case file of the patient disclosed that it was 20 weeks 1 day.</i>
<i>2</i>	<i>Ms. Anusha, 23 years</i>	<i>Medical termination</i>	<i>Dr. Nalini</i>	<i>Although the MTP Register</i>

		<i>of pregnancy</i>		<p><i>maintained does not disclose the gestation period, from the case sheet of the patient, a scan report disclosed that it was <b>24 weeks</b>.</i></p> <p><b>Note:</b> <i>24 weeks is an advanced stage as per the amended to section 3 of the Medical Termination Act, 2 medical practitioners would have had to sign off on it.</i></p>
3	<i>Pushpalatha K. K., 30 years</i>	<i>Medical termination of pregnancy</i>	<i>Dr. Nalini</i>	<p><i>Although the MTP Register maintained does not disclose the gestation period, from the case sheet of the patient, a scan report disclosed that it was <b>31 weeks 4 days</b>.</i></p> <p><b>Note :</b> <i>At an advanced stage of 31 weeks, recommendation by the medical board is absolutely essential for termination of pregnancy. Further, even though</i></p>

				<p><i>anomalies are found in the case sheet, a termination ought not to have been done without any recommendation but instead, should have been done, if at all recommended, at the tertiary level i.e., at an advanced medical facility with adequate facilities. Further, even the case file specifically discloses that it was a male baby, when asked for what was done with the baby post delivery, no satisfactory answers were forthcoming from the Doctors.</i></p>
4	<p><i>Ms. Jahnavi, 29 years</i></p>	<p><i>Medical termination of pregnancy</i></p>	<p><i>Dr. Nalini</i></p>	<p><i>Although the MTP Register maintained does not disclose the gestation period, from the case sheet of the patient, a scan report disclosed that it was <b>29 - 30 weeks.</b></i></p> <p><b>Note:</b> <i>Medical board recommendation</i></p>

				<i>not taken. Even so, a cardiologist's opinion for the anomaly found has not been taken."</i>
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The learned Additional Government Advocate pointing out on the aforesaid chart would submit that the original Medical Termination of Pregnancy Register is seized wherein the gestational ages of the foetus which have been terminated find no mention. When F-form, a form that is mandatorily required to be maintained, was scrutinized, the gestational period did not come to light. But, only when the second report in the file was seen, it was noticed that termination of pregnancy has happened of the aforesaid four patients of a foetus that is 20 weeks and 1 day; 31 weeks 4 days, 30 weeks and 24 weeks respectively. Therefore, there is violation under the Act. Medical termination of pregnancy is dealt with under the Medical Termination of Pregnancy Act, 1971. According to the said Act up to 20 weeks gestation of the foetus in termination is legal and beyond 20 weeks termination can be only after express permission from the competent authorities. Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act read as follows:

**"3. When pregnancies may be terminated by registered medical practitioners.**—(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

- (a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or
- (b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are,

of the opinion, formed in good faith, that—

- (i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or
- (ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

*Explanation 1.*—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

*Explanation 2.*—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the

*pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.*

*(2-A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.*

*(2-B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.*

*(2-C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.*

*(2-D) The Medical Board shall consist of the following, namely—*

- (a) a Gynaecologist;*
- (b) a Paediatrician;*
- (c) a Radiologist or Sonologist; and*
- (d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be.*

*(3) In determining whether the continuance of pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.*

*(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a <sup>9</sup>[mentally ill person], shall be terminated except with the consent in writing of her guardian.*

*(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman.*

**4. Place where pregnancy may be terminated.—**  
*No termination of pregnancy shall be made in accordance with this Act at any place other than—*

- (a) a hospital established or maintained by Government, or*
- (b) a place for the time being approved for the purpose of this Act by Government or a District Level Committee constituted by that Government with the Chief Medical Officer or District Health Officer as the Chairperson of the said Committee:*

*Provided that the District Level Committee shall consist of not less than three and not more than five members including the Chairperson, as the Government may specify from time to time.]*

**5. Sections 3 and 4 when not to apply.—(1) The provisions of Section 4, and so much of the provisions of sub-section (2) of Section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.**

**(2) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified.**



**(3) Whoever terminates any pregnancy in a place other than that mentioned in Section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.**

**(4) Any person being owner of a place which is not approved under clause (b) of Section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.**

**Explanation 1.—For the purposes of this section, the expression "owner" in relation to a place means any person who is the administrative head or otherwise responsible for the working or maintenance of a hospital or place, by whatever name called, where the pregnancy may be terminated under this Act.**

**Explanation 2.—For the purposes of this section, so much of the provisions of clause (d) of Section 2 as relate to the possession, by registered medical practitioner, of experience or training in gynaecology and obstetrics shall not apply."**

*(Emphasis supplied)*

Section 3 depicts that when a pregnancy may be terminated by a registered medical practitioner and Section 4 deals with where the pregnancy can be terminated and Section 5 deals with when Sections 3 and 4 would not become applicable. Those are cases where the victim has become pregnant on account of sexual assault. According to the State the aforesaid people have got their medical termination of pregnancy done. It is an admitted fact that

records are not maintained. According to the State it could be a case of termination of female foetus. For termination of pregnancy beyond 20 weeks a recommendation by a medical Board is imperative for such termination. It is an admitted fact that there is no recommendation of any medical Board found in the documents maintained by the Nursing Home.

10. The learned counsel for the petitioner takes the Court through the aforesaid specific four cases and explains as to why medical termination had to be done. The reports are appended to the documents so placed before the Court. Here again the termination is found but opinion of the Medical Board for such termination is not forthcoming. Therefore, admittedly there is violation of the 1971 Act.

11. Next comes the violation under the Act. According to the State there are about 20 patients whose records were examined and were all operated upon surgically by the husband and wife who run the Nursing Home. They are all gynaecology surgeries and

details of surgeries performed by the husband and wife who run the Nursing Home are as follows:

**"GYNAECOLOGY SURGERIES**

<b>SL. NO</b>	<b>Patient's name</b>	<b>Diagnosis</b>	<b>Surgery performed</b>	<b>Date of surgery</b>	<b>Doctor's name</b>	<b>Doctor's qualification</b>
1	Mahadevamma 50 years	Cervical growth	Total abdominal hysterectomy with bi-lateral salphingoopherectomy	08.11.2022	Dr. Devaraj, Dr. Nalini	MBBS
2	Sheela, 34 years	Dysfunctional uterine bleeding	Total abdominal hysterectomy	25.11.2022	Dr. Devaraj, Dr. Nalini	MBBS
3	Jyothi, 30 years	Pelvic inflammatory disease	Total abdominal hysterectomy and appendisectomy	01.08.2023	Dr. Devaraj, Dr. Nalini	MBBS
4	Bhagya, 30 years	Dysfunctional uterine bleeding	Total abdominal hysterectomy, Appendisectomy	20.12.2022	Dr. Devaraj, Dr. Nalini	MBBS
5	Gopal, 24 years	Acute	Appendisectomy appendicitis	12.11.2022	Dr. Devaraj,	MBBS
6	Kalavathi, 37 years	Fibroid uterus	Total abdominal hysterectomy with appendisectomy	02.12.2022	Dr. Devaraj, and Dr. Nalini	MBBS
7	Sudha, 36 years	Fibroadenoma in right breast	Excision biopsy done in left breast	09.11.2022	Dr. Devaraj	MBBS
8	Shwetha, 36 years	Adenomyosis with right ovarian mass	Total abdominal hysterectomy with right salphingoopherectomy	16.07.2023	Dr. Devaraj, Dr. Nalini	MBBS
9	Neelamma, 40 years	Dysfunctional uterine bleeding	Total abdominal hysterectomy with	10.06.2023	Dr. Devaraj, Dr. Nalini	MBBS

			<i>appendisectomy</i>			
10	<i>Anitha, 32 years</i>	<i>Dysfunctional uterine bleeding</i>	<i>Total abdominal hysterectomy with appendisectomy</i>	22.11.2022	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
11	<i>Lakshmi, 22 years</i>	<i>Cholethiatis</i>	<i>Laparoscopic cholecystectomy</i>	29.01.2023	<i>Dr. Sharath</i>	MBBS, MS General surgery
12	<i>Manjula, 45 years</i>	<i>Umbilical hernia</i>	<i>Herniorrhaphy</i>	14.07.2023	<i>Dr. Devaraj</i>	MBBS
13	<i>Mamatha, 25 years</i>	<i>Left side twisted ovarian cyst</i>	<i>Left salphingoophectomy with appendisectomy with bilateral tubectomy</i>	17.12.2023	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
14	<i>Geetha, 32 years</i>	<i>Pelvic inflammatory disease</i>	<i>Total abdominal hysterectomy with appendisectomy</i>	11.08.2023	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
15	<i>Rupa, 31 years</i>	<i>Pelvic inflammatory disease</i>	<i>Total abdominal hysterectomy with appendisectomy</i>	12.08.2023	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
16	<i>Preethi, 32 years</i>	<i>Endometriosis</i>	<i>Total abdominal hysterectomy with bilateral salphingoophectomy with appendisectomy</i>	05.11.2022	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
17	<i>Manjula, 32 years</i>	<i>Fibroid uterus</i>	<i>Total abdominal hysterectomy with appendisectomy</i>	04.11.2022	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
18	<i>Ramya, 30 years</i>	<i>Pelvic inflammatory disease</i>	<i>Total abdominal hysterectomy with appendisectomy</i>	06.12.2022	<i>Dr. Devaraj, Dr. Nalini</i>	MBBS
19	<i>Giramma,</i>	<i>Post</i>	<i>Total</i>	04.11.2022	<i>Dr.</i>	MBBS

	38 years	menopausal bleeding	abdominal hysterectomy with bilateral salphingoophe rectomy with appendisectomy		Devaraj, Dr. Nalini	
21	Bhagya, 35 years	Fibroid uterus	Total abdominal hysterectomy with appendisectomy	04.11.2022	Dr. Devaraj, Dr. Nalini	MBBS"

Most of the surgeries performed are hysterectomy and appendisectomy. Therefore, it is removal of uterus and appendix. The gynaecologist who performed the surgery i.e., Dr. Nalini claims to be qualified with MBBS and Diploma and that what she has produced before the authorities is only an MBBS degree certificate. According to the State she was not qualified to perform any of the surgeries as it has to be performed only by qualified doctors. Appendisectomy that is performed in every case is said to have raised suspicion as there is no scanning done with regard to the appendix to be removed in any of the cases. The main allegation of the State, is that no qualified doctors, ever performed surgeries putting the health of the patients into risk. It is the submission of the learned Additional Government Advocate that merely because no surgery has gone wrong, does not mean that the doctors are

qualified to perform the surgeries. These are the violations under the Act. The allegations of violations are *prima facie*, as the enquiry is pending. The defence of the petitioner is that they come within the exceptions carved out under the provisions of the 1994 Act and the Medical Termination of Pregnancy Act, 1971. I deem it appropriate not to delve deep into the defence of the petitioner, as it would prejudice the petitioner's defence before the enquiry. Therefore, it is for the petitioner to prove the allegations wrong in the enquiry. The allegations are noticed only for the limited purpose of the resolution of the subject *lis*.

12. The other issue is whether the Nursing Home could have been closed by an act of the State on account of violations under the Act. Certain provisions of the Act become germane to be noticed. Section 7 deals with disposal of applications. Section 15 which deals with penalty or suspension or cancellation of registration is germane to be noticed and it reads as follows:

***“15. Penalty or suspension or cancellation of registration.—(1) In case of any private medical establishment failing to comply with any of the directions given by the Registration and Grievance Redressal Authority***

*under sub-section (8) of Section 7, the Authority may impose a penalty not exceeding fifty thousand rupees and extend the time for compliance or proceed to cancel the registration of the establishment, after giving the establishment an opportunity of being heard.*

*(2) In case of a complaint from a patient regarding over-charging the Registration and Grievance Redressal Authority after holding enquiry under sub-section (3) of Section 8 finds that the Private Medical Establishment has violated the provisions of sub-section (2), (4) or (5) of Section 10 the Registration and Grievance Redressal Authority shall impose a penalty equivalent to one and half times of the overcharged amount, after giving the establishment an opportunity of being heard. Out of the penalty amount an amount equal to the over-charged amount shall be paid to the patient and the balance shall be deposited with the Arogya Raksha Samithi of the district for taking up public health activities:*

*Provided that in case of such over-charging by a particular private establishment the Registration and Grievance Redressal Authority after holding such enquiry under sub-section (3) of Section 8 finds that the Private Medical Establishments has violated the provisions of Section 10 for the third time within a calendar year, the Registration and Grievance Redressal Authority shall make a written complaint to the concerned Court for taking up cognizance of the offence and subsequent prosecution. On conviction, the concerned private medical establishment shall be liable for a penalty which may be extend to three-times of the amount over charged or rupees one lakh, whichever is higher.*

*(3) In case of a complaint from a patient regarding any matter in the Patient's Charter or Private Establishments Charter, other than the over-charging the Registration and Grievance Redressal Authority having found that the Private Medical Establishments has violated the provisions of Section 11-A shall impose a penalty of rupees ten thousand for the first non-compliance and rupees twenty five thousand for the second non-compliance during a calendar year on the concerned private medical establishment, after giving the establishment an opportunity of being heard. Fifty percent of*

*the penalty amount shall be paid to the patient and the balance fifty percent shall be deposited with the Arogya Rakshana Samithi of the district for taking up public health activities:*

*Provided that in case of such complaint against a particular private establishment for the third time within a calendar year, the Registration and Grievance Redressal Authority shall make a written complaint to the concerned Court for taking up cognizance of the offence and subsequent prosecution. On conviction, the concerned private medical establishment be liable for a penalty which may be extend to fifty thousand rupees.*

*(5) The Registration and Grievance Redressal Authority, on the basis of a complaint or otherwise if a prima facie case exists about the contravention of any provisions of this Act or the rules made there under or conditions of registration may, by order in writing and for the reason to be recorded in writing suspend or cancel the registration of a Private Medical Establishment and also ensure that arrangements are made within reasonable time for uninterrupted health care to the inpatients:*

*Provided that no such order shall be made except after giving a reasonable opportunity of being heard, to the Private Medical Establishment.*

*(6) Every order made under sub-section (1) shall contain a direction that the inpatients of the Private Medical Establishment shall be transferred to such other Private Medical Establishment as may be specified in that order and it shall also contain such provisions as to the care and custody of such inpatients pending such transfer.*

*(7) Every order made under sub-section (1) shall take effect,—*

*(a) where no appeal has been preferred against such order under Section 17, immediately on the expiry of the period specified for such appeal; and*



- (b) *where such appeal has been preferred and the same has been dismissed, from the date of order of such dismissal."*

Section 19 deals with penalties and reads as follows:

**"19. Penalties.**—(1) *Where any person establishes, runs or maintains a Private Medical Establishment without registration granted under Section 7 he shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend upto one lakh rupees.*

(2) *When a person is convicted under sub-section (1), the Registration and Grievance Redressal Authority shall direct immediate closure of the un-registered Private Medical Establishment, except where a registration is cancelled or suspended and an appeal filed against such cancellation or suspension is pending.*

(3) *Every order made under sub-section (1) shall contain a direction that the inpatients of such unregistered Private Medical Establishment shall be transferred to such other Private Medical Establishment as may be specified in that order and it shall also contain such other provisions as to the care and custody of such inpatients pending such transfer.*

(4) *Where any person runs or maintains a Private Medical Establishment in contravention of the conditions of registration or contravenes the provisions of Section 12 or 13, or fails to comply with the direction issued under sub-section (2) he shall, on conviction, be punished with imprisonment for a term which may extend to one year and with a fine which may extend to "twenty five thousand rupees" and in the case of a second or subsequent offence with imprisonment for a term which may extend to one year and with a fine which may extend to "fifty thousand rupees".*

(5) *Where a person contravenes any other provision of this Act or the rules made thereunder he shall, on conviction,*

*be punishable with a fine which may extend to one lakh rupees.*

*(6) Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall be punishable by the Registration and Grievance Redressal Authority with a fine which may extend to ten thousand rupees.”*

Section 22 of the Act reads as follows:

**“22. Sealing premises of un-registered Private Medical Establishments.—(1) Without prejudice to the provisions of Section 19, if on a report made by the authorised officer under sub-section (1) of Section 21 or otherwise the Registration and Grievance Redressal Authority has reason to believe that any Private Medical Establishment is run or maintained without registration under Section 7, it may order immediate closure of such Private Medical Establishment and also seal the premises:**

***Provided that no order under this sub-section shall be made without giving an opportunity of being heard to the person likely to be affected thereby.***

***(2) Every order made under sub-section (1) shall contain a direction that the inpatients of such un-registered Private Medical Establishment shall be transferred to such other Private Medical Establishment as may be specified in that order and it shall also contain such provisions as to the care and custody of such inpatients pending such transfer.”***

*(Emphasis supplied)*

Section 22 deals with sealing of premises of unregistered private medical establishments. Section 15 *supra* deals with cancellation of registration in various circumstances if it is in violation of Section 7 of the Act which has to be determined by the Grievance Redressal Authority. Section 19 depicts penalties upon medical establishments. Section 19 permits prosecution to be initiated against those establishments which are found to be in violation of Section 7 or even the ones who would fail to comply with Section 12 or 13 or the direction of the State. Section 22 permits sealing of a premises where the State has reason to believe that a private medical establishment is run or maintained without registration under Section 7. This can result in immediate closure. The only power to seal a premise is under Section 22 and the only reason under Section 22 can be that a private medical establishment is run without registration.

13. The case at hand is not the one where the Nursing Home is run without registration. It is admitted fact that the Nursing Home is registered under Section 7 of the Act. Therefore, sealing of the premises is contrary to law, but not any other action. The

Nursing Home is now issued a notice to hold an inquiry. An inquiry shall be conducted in accordance with law. However, sealing of the premises being contrary to law will have to be annulled. Therefore, the premises will have to be unlocked with several stringent conditions. The scanning unit in the Nursing Home shall not be operated till the Nursing Home comes out clean in the inquiry. The Surgeries cannot be performed by the doctors except with express permission of the competent authority after divulging all the details and not by the owners of the Nursing Home, but by qualified surgeons who are enlisted by the Nursing Home. The aforesaid stringent step is to be taken only in the wake of the Nursing Home performing surgeries by doctors without qualification and not maintaining any records of medical termination of pregnancies. On the specious plea that scanning machine is changed and permission is sought for change of scanning machine, the inquiry cannot be stopped. Till the documents are retrieved and inquiry is completed, no scanning can take place in the Nursing Home.

14. For the aforesaid reasons, I pass the following:

**ORDER**

- (i) Writ Petition is allowed in part.
- (ii) Sealing of the petitioner/Nursing Home is held to be contrary to Section 22 of the Act and, therefore, a direction ensues to unlock the premises.
- (iii) The scanning unit within the premises of the Nursing Home shall remain closed till the inquiry is complete.
- (iv) No surgery shall be performed without the express approval of the competent authority and never to be performed by the owners of the Nursing Home, as they are not qualified to perform any surgery, which would all be subject to the outcome of the enquiry.
- (v) The inquiry that is now initiated or to be initiated against the Nursing Home shall be concluded within four

months from the date of receipt of a copy of this order,  
if not earlier.

(vi) All contentions of all the parties would remain open.

Bkp  
CT:MJ

**Sd/-  
JUDGE**