

2016



**THE STATE OF THE PC&PNDT ACT:
INDIA'S LOSING BATTLE AGAINST
FEMALE FOETICIDE**



ASIAN CENTRE FOR HUMAN RIGHTS



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LIST OF ABBREVIATIONS

ACHR	Asian Centre for Human Rights
AIIMS	All- India Institute of Medical Sciences
BAMS	Bachelor in Ayurvedic Medicine & Surgery
CAG	Comptroller and Auditor General of India
CEHAT	Centre for the Enquiry of Health and Allied Themes
CMO	Chief Medical Officer
CrPC	Code of Criminal Procedure
CSB	Central Supervisory Board
CSR	Child Sex Ratio
DAA	District Appropriate Authority
DAC	District Advisory Committee
FOGSI	Federation of Obstetric and Gynaecological Societies of India
GPS	Global Positioning System
IMA	Indian Medical Association
IPC	Indian Penal Code
IRIA	Indian Radiological and Imaging Association
IVF	In-Vitro Fertilization
MBBS	Bachelor of Medicine and Bachelor of Surgery
MTP	Medical Termination of Pregnancy
NCRB	National Crime Records Bureau
NCT	National Capital Territory
NGO	Non Governmental Organisation
PC&PNDT	Pre-Conception and Pre-Natal Diagnostic Techniques Act
PIL	Public Interest Litigation
PNDT	Pre-Natal Diagnostic Techniques Act
SAC	State Advisory Committee
SIMC	State Inspection and Monitoring Committee
SMO	Senior Medical Officer
SRB	Sex Ratio at Birth
SSB	State Supervisory Board
USG	Ultra-sonography
UT	Union Territory
VHAI	Voluntary Health Association of India
WHO	World Health Organisation

I. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Indian society is infamous for son preference and discrimination against the girl child leading to female foeticide and female infanticide. According to the Government of India, *“Some of the reasons for neglect of girl child and low child sex ratio are son preference and the belief that it is only the son who can perform the last rites, that lineage and inheritance runs through the male line, sons will look after parents in old age, men are the bread winners etc. Exorbitant dowry demand is another reason for female foeticide/infanticide. Small family norm coupled with easy availability of sex determination tests may be a catalyst in the declining child sex ratio, further facilitated by easy availability of pre-conception sex selection facilities”*.¹ Even though women’s intestate as well as ancestral property rights are safeguarded under their personal laws, in practice women do not get any legal hold on parents, ancestral or matrimonial property. The *“Family Law of Usage and Customs of Gentile Hindus of Goa”* codified under the Goa Civil Code allows “simultaneous polygamy” by a Hindu man to marry a second wife if the first wife does not have any child till the age of 25 or if she does not have a male child till the age of 30.²

Prior to the invention of technology for sex selection of the foetus, female infanticide was widespread in India. The Government of India criminalised female infanticide under Sections 315³ and Section 316⁴ of the Indian Penal Code while dowry too was prohibited under the Dowry Prohibition Act of

1. Statement of Shri Ghulam Nabi Azad, Union Minister for Health and Family Welfare in Rajya Sabha on 11 February 2014, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

2. Study cites Goan law to show tilt to sons, The Telegraph, 16 November 2013, http://www.telegraphindia.com/1131116/jsp/nation/story_17575819.jsp#.V66zdpH96M8

3. Section 315. Act done with intent to prevent child being born alive or to cause it to die after birth, “Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

4. Section 316. Causing death of quick unborn child by act amounting to culpable homicide, “Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

1961. Nonetheless, incidents of infanticide continue to be reported regularly. The National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Government of India recorded 2,266 cases of infanticide i.e. 113 cases per year across India during 1994 to 2014⁵ with highest number of cases being reported from Madhya Pradesh with 537 cases followed by Uttar Pradesh with 395 cases and Maharashtra with 286 cases, among others.⁶

By 1980s, female infanticide was replaced by female foeticide through pre-conception and pre-natal sex determination technology.⁷ The collusion of technology and traditions of son preference had devastating impact: as per the estimates of the Asian Centre for Human Rights (ACHR) provided in this report, during 1991 to 2011, a total of 25,49,3,480 girls i.e. 12,74,674 girls per year went missing including as a result of sex selection.

India enacted the Pre-Natal Diagnostic Techniques Act, 1994 (PNDT Act), rechristened as Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PC&PNDT Act) in 2003 to address the menace of sex selection. As per the statement of the Government of India made before the parliament on 27.02.2015, since the PC&PNDT Act came into force in 1994, a total of 2,021 cases were registered with court and police as of September 2014.⁸

Despite the PC&PNDT Act, India is fighting a losing battle against sex selection because of its non-enforcement. If about 25,49,3,480 girls approximately went missing as a consequence of sex selection from 1991 to 2011 and 2,021 court and police cases were filed from 1994 to 2014 under the PC&PNDT Act, it implies that on an average only 1 (one) court case was filed approximately for 12,614 cases of sex selection. As conviction was secured only in 206 cases during 1994-2014, it also implies that only 1 (one) conviction was secured per 1,23,755 cases of sex selection. This abysmal failure in the implementation of the

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5. Crime in India report series 1994 to 2014, National Crime Records Bureau, available at: <http://ncrb.gov.in/>
 6. State wise data for two years 1998 and 2000 is not available and hence not included in the total in States of Madhya Pradesh, Maharashtra and Uttar Pradesh
 7. United Nations Population Fund (UNFPA) Asia and Pacific Regional Office, Sex Imbalances at Birth: Current trends, consequences, and policy implications, 2012.
<https://www.unfpa.org/sites/default/files/pub-pdf/Sex%20Imbalances%20at%20Birth.%20PDF%20UNFPA%20APRO%20publication%202012.pdf>
 8. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

PC&PNDT Act is evident despite numerous directions of the Supreme Court in *CEHAT and Others v. Union of India*,⁹ *Voluntary Health Association of Punjab vs. Union of India & Ors*¹⁰ and numerous judgments of the High Courts. That India registered 2,266 cases of infanticide¹¹ against 2,021 cases under the PC&PNDT Act¹² during 1994-2014 exposes poor implementation of the PC&PNDT Act as the sex selection in violations of the PC&PNDT Act (12 million missing girls per year) are far more widespread than female infanticide (113 cases per year).

Indeed, there is no national experience on the implementation of the PC&PNDT Act as many 18 out of 29 States and six out of seven Union Territories (UT) failed to effectively utilize the Act. As of September 2014, nine States i.e. Arunachal Pradesh, Himachal Pradesh, Kerala, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and five UTs i.e. Andaman & Nicobar Island, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry¹³ had not filed a single case under the PC&PNDT Act since 1994 despite all these States having districts targeted under the *Beti Bachao Beti Padao*, the flagship programme launched by the Prime Minister of India to arrest the falling CSR. Further, during the same period, no conviction was secured in nine states i.e. Andhra Pradesh, Chhattisgarh, Goa, Jharkhand, Karnataka, Tamil Nadu, Uttarakhand and West Bengal and UT of Chandigarh.¹⁴

In order to improve implementation of the PCPNDT Act, in 2012, the Government of India amended Rule 3 of the Pre Natal Diagnostic (Techniques (Prohibition of Sex Selection) Rules, 1996. In 2014, the Government of India further brought the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 (known as Six Months Training Rules) on 9th January, 2014 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 on 31st January 2014 relating to “Form F” and the Pre-conception and Pre-natal

9. Writ Petition (civil) 301 of 2000, *CEHAT and Others v. Union of India*

10. *Voluntary Health Association of Punjab vs. Union of India & Ors (2013) 4 SCC 1*

11. Crime in India report series 1994 to 2014, National Crime Records Bureau, available at: <http://ncrb.gov.in/>

12. Reply of the Union Health Minister J P Nadda to UNSTARRED QUESTION NO. 799 ANSWERED on 7.02.2015 before Lok Sabha

13. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/pssearch/QResult16.aspx?qref=12203>

14. *Ibid*

Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 relating to conduct for Advisory Committees.

Since these 2014 amendments to the PC&PNDT Rules and directions of the Supreme Court in *VHAI Punjab*¹⁵ case, the medical lobby and the radiologists have been up against the PC&PNDT Act and putting pressure on the Ministry of Health and Family Welfare. Further in 2014, Mumbai High Court in a series of judgments refused to interfere with the orders of Appropriate Authorities pertaining to cancellation or suspension of registration in Maharashtra including in *Dr. Radhakrishna v. the State of Maharashtra*¹⁶, *Dr. Vijaymala v. the State of Maharashtra*¹⁷, *Dr. Vinayak v. the State of Maharashtra*¹⁸, *Dr. Ravindra v. the State of Maharashtra*¹⁹, *Faijan Multi Speciality Hospital v. the State of Maharashtra*,²⁰ *Dr. Dattatraya v. the State of Maharashtra*,²¹ *Dr. Sau Nirmala w/o Ramprasad Bajaj v. the State of Maharashtra*.²² The opposition to the Act further gained momentum with the conviction and sentencing of a radiologist from Pune, Maharashtra to one year imprisonment for failing to maintain records as per the PC&PNDT Act in December 2015.²³ The demands of the radiologists include: (i) clerical errors in Form F/not wearing of apron/non display of notice board/not keeping hand book on the PC&PNDT Act should not be equated with sex determination and criminal offence; (ii) punishment should be graded; (iii) ultrasound machines should not be sealed and medical qualification should not be cancelled on minor clerical error; (iv) the Gazette notification dated 5th June 2012 regarding restriction on radiologists for visiting more than two ultrasound centre in a District/intimation of change of radiologists and equipment one month in advance should be de-notified or suitably amended; and (v) renewal of the PC&PNDT registration should not be denied until and unless case is proved in the court of law.²⁴

15. Voluntary Health Association of Punjab vs. Union of India & Ors (2013) 4 SCC 1

16. Dr. Radhakrishna vs The State of Maharashtra

17. Criminal Writ Petition No.21 of 2013, Bombay High Court, Judgment delivered on 9 May 2014

18. Criminal Writ Petition No. 5 of 2013, Bombay High Court, Judgment delivered on 9 May 2014 -

19. Dr. Ravindra vs The State of Maharashtra, Bombay High Court, 9 May 2014

20. Faijan Multi Speciality Hospital vs The State of Maharashtra, Bombay High Court, 9 May 2014

21. Dr. Dattatraya vs The State Of Maharashtra on 9 May, 2014 available at <https://indiankanoon.org/doc/146912044/>

22. Dr. Sau. Nirmala w/o Ramprasad Bajaj v. The State of Maharashtra (Criminal Application No. 3966 of 2013, Bombay High Court, Decided on 9 May 2014

23. Centre can dilute PCPNDT Act, The Times of India, 15 December 2015, <http://timesofindia.indiatimes.com/city/pune/Centre-can-dilute-PCPNDT-Act/articleshow/50182061.cms>

24. Amend PC-PNDT Act or we go on strike: Radiologists to Nadda, 22 August 2016, see <http://medicaldialogues.in/>

In March 2016, the Ministry of Health and Family Welfare invited suggestions/comments to the proposed amendments to the PC&PNDT Amendment Bill.²⁵ However, a cursory scrutiny of the proposed amendments shows that the proposed amendments reflect the demands of the medical lobby and radiologists.

In the proposed amendments to the PC&PNDT Act, the Ministry of Health and Family Welfare suggested amendment of Section 23(1) by replacing the phrase *“who contravenes any of the provisions of this Act or Rules made thereunder”* with *“who indulges in or assists or aids Sex Determination/selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4”*.

The proposed amendment seeks to restrict the scope and operation of Section 23 (1) only to cases where the accused medical professional “indulges in or assists or aids sex determination/selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4” while the existing provision of Section 23 (1) covers contravention of “any of the provisions of this Act or Rules made thereunder”. In effect, the proposed amendment seeks to turn the burden of proof on the prosecutor in one hand and makes the standard of proof more stringent. Once the proposed amendment is allowed, the irregularities in record keeping as per Form “F” which are part and parcel of sex selective tests would escape the rigours of the existing Section 23 as the prosecutors shall have to prove indulgence in or assistance or aiding sex determination/selection or for conducting pre-natal diagnostic techniques by the accused medical professionals or diagnostic centers/clinics. It is widely known and accepted that medical professionals or diagnostic centers/clinics when accused of conducting sex determination test including by suppression of the facts prescribed to be recorded, they take the alibi of clerical errors. But entry of wrong or imaginary names of pregnant women and addresses cannot be treated as clerical errors and these are done intentionally.

The Ministry of Health and Family Welfare also proposed amendment of Section 23 by inserting a new clause, Section 23(1)(A) prescribing only monetary penalty

amend-pc-pndt-act-or-we-go-on-strike-radiologists-to-nadda/

25. See <http://www.medicaldialogues.in/wp-content/uploads/2016/03/PNDT-Proposed-amendments.pdf>

of maximum rupees ten thousand for not wearing apron, displaying board declaring not conducting sex selection and making available copy of the Act in the genetic clinics & USG centres²⁶ instead of the penalty of “imprisonment for a term which may extend to three months” under the existing PC&PNDT Act. It is clear that the demands of the IMA and IRIA that any offence under Section 25 should not be a criminal offence are being effectively addressed by the Ministry of Health and Family Welfare.²⁷

The Comptroller and Auditor General (CAG) of India in its latest report, “*Performance Audit on Empowerment of Women Government of Uttar Pradesh*”, covering the financial year from 2010-2011 to 2014-2015 brought to fore gross anomalies in implementation of the PC&PNDT Act.²⁸ The CAG has identified key problems in the implementation of the PC&PNDT Act as underutilization of funds, non-renewal of registration leading to automatic renewal of registration, non-maintenance of patients’ details and diagnostic records, non maintenance of records by the authorities, absence of regular inspection of ultrasonography (USG) centres, lack of documentation of inspection report, lack of mapping and regulation of USG equipment, lack of tracking system in USG machines, no training of medical practitioners conducting ultrasonography, missing of the seized USG machines, inadequate number of decoy operations, non-imposition of penalties, lack of regular meetings by authorities and insufficient inspections. The findings of the CAG in Uttar Pradesh are indicative of the situation across the country.

Despite such shortcoming, there are more reports of arrest of doctors for violations of the PC&PNDT Act. Sex selection is a multi-billion dollar industry. That online search engines Microsoft, Google and Yahoo of violating the PC&PNDT Act hosted advertisements pertaining to pre-natal sex determination²⁹ shows the scale and intensity of sex selection.

26. Ibid

27. See Minutes of the meeting of the Expert Committee on proposed amendment to the PCPNDT Act held on 4 July 2016 available at: <http://module.ima-india.org/PNDT27july2016.pdf>

28. Report of the Comptroller and Auditor General of India For the year ended 31 March 2015 ‘Performance Audit on Empowerment of Women’ Government of Uttar Pradesh Report No. 3 of 2016

29. See SC slams Microsoft, Google, Yahoo for hosting sex determination Advts violating PNDT Act, Live Law, 5 July 2016, and http://sci.nic.in/FileServer/2016-07-05_1467718758.pdf

The falling CSR is a stark reality and the CSR is all set to fall further from 919 as per 2011 census.³⁰ According to Sample Registration System *Statistical Report-2013*³¹, the Sex Ratio at Birth (SRB) in the age group 0-4 for the country for the period 2011-2013 (3-years average) was estimated at 909. If under-five mortality rate of 48 deaths per 1,000 births in India³² is taken into account, the child sex ratio during 2011-2013 will be about 886³³ girls per thousand boys which is drastic fall from CSR of 919 during 2011 census.

If the PC&PNDT Act were to act as the deterrent to prevent further fall in the CSR as a result of sex selection, there is no doubt that sentencing should be based on gravity of the offences. ACHR argues that non maintenance of records as per existing Form F ought to be treated as offences punishable with three months imprisonment while ultrasound machines and medical licenses should be seized or cancelled if Form F is not maintained. Further, punishment for sex selection leading to female foeticide under Sub-Section (1) of Section 23 and Section 25 of the PC&PNDT Act shall have to be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both as provided under Section 315 and Section 316 of the IPC. Similarly, the contravention of the Act or any provision of the Rules will have to make offences financially disincentive.

Without the PC&PNDT Act, the sex ratio would have fallen far more drastically. The CSR fell by 7 points from 1951 (983) to 1961 (976), 12 points from 1961 (976) to 1971 (964), 2 points from 1971 (964) to 1981 (962), 17 points from 1981 (962) to 1991 (945), 18 points from 1991 (945) to 2001 (927) and 9 points from 2001 (927) to 2011 (919).³⁴ The highest fall in the CSR was recorded from 1981 to 1991 (17 points) and 1991-2001 (18 points) confirm beyond any reasonable doubt the misuse of technology for sex selection. Once

30. See the Statement of Shri Ghulam Nabi Azad, then Union Minister for Health and Family Welfare in a written reply to the Rajya Sabha on 11.02.2014 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

31. The SRS Statistical Report 2013 of the Census of India, Government of India is available at http://www.censusindia.gov.in/vital_statistics/SRS_Reports_2013.html

32. 20% of world's under-5 deaths occur in India, The Times of India, 9 September 2015 available at <http://timesofindia.indiatimes.com/india/20-of-worlds-under-5-deaths-occur-in-India/articleshow/48878224.cms>

33. As per WHO estimate of natural sex ratio of 105 males for every 100 females, for 48 death, the number of male death will be 25 and the number of female will be 23

34. Census of India publications, 1961, 1971, 1981, 1991, 2001, available at <http://iasir.net/AIJRHASSpapers/AIJRHASS14-203.pdf> and 2011 census <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

the PC&PNDT Act was made a bit more stringent in 2003 as per the directions of the Supreme Court in *CEHAT case*, it appears to have had some deterrent effect and the CSR fell only by 9 points from 2001 to 2011. However, India can ignore the reality that in at least 24 panchayats of Una district of Himachal Pradesh, the CSR fell to below 500 and in two gram panchayats of Una, the sex ratio was 111 and 167 respectively³⁵ at its own perils.

India also needs to get its act together to combat sex selection falling CSR of the girls. Currently, the PC&PNDT Act enacted to combat female foeticide is under the Ministry of Health and Family Welfare which by definition is conscious of the interest of the medical lobby. On the other hand, all the schemes for girl child are under the Ministry of Women and Child Development while birth registration is under the Ministry of Home Affairs. There is a clearly an absence of a nodal agency to address falling CSR.

In order to address female foeticide in India, Asian Centre for Human Rights recommends the following to the Government of India:

- Ensure effective implementation of the PC&PNDT Act in letter and spirit including through launching of pilot schemes on the implementation of the Act in the districts targeted under the *Beti Bachao, Beti Padao* scheme;
- Reject any further amendments of the PC&PNDT Act placed in March 2016 especially making non-maintenance of records punishable only with fine;
- Establish a Central nodal agency to combat female foeticide under the joint collaboration of Ministry of Women and Child Development and Ministry of Health & Family Welfare by bringing (i) Increased accountability of the Appropriate Authorities of the PC&PNDT Act currently under the Ministry of Health and Family Welfare, (ii) incentivized schemes for retention of the girl child across all economic class currently under the Ministry of Women and Child Development, and (iii) Mandatory birth registration with a concentrated focus on girls currently under Ministry

35. Fighting female foeticide: Punjab not helping us, says Himachal govt, The Hindustan Times, 6 August 2015, <http://www.hindustantimes.com/punjab/fighting-female-foeticide-punjab-not-helping-us-says-himachal-govt/story-6Sk4WCUPjasJRsf61gLA1L.html>

of Home Affairs under the administrative control of the nodal agency for effective combating of falling CSR;

- Use of Sex Ratio at Birth (SRB) by Registrar General of India should be taken annually instead of the CSR calculated every decade by RGI to identify districts having lowest child sex ratio and undertake effective implementation of the PC&PNDT Act; and
- Government of India should either incorporate/strengthen in the *Beti Bachao Beti Padoo Program* or launch a specific scheme to provide financial assistance to families to retain/survival of the girl child irrespective of income of the parents and make the scheme attractive enough for retention/survival of the girl child.

2. THE SCALE OF FEMALE INFANTICIDE AND FOETICIDE IN INDIA

India continues to witness female infanticide as well as female foeticide despite both the offences being punishable under law.

Table 1: Fact sheet on female foeticide and female infanticide in India

Number of missing girls due to sex selection during 1991-2011	25,49,3,480 i.e. 25.49 million
Number of missing girls due to sex selection per year	12,74,674 i.e. 12.74 million
Number of cases registered under the Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC&PNDT Act) from 1994-2014	2,021
Number of cases registered under the PC&PNDT Act per year	101
Number of conviction secured under the PC&PNDT Act from 1994-2014	206
Ratio of cases registered against missing girls	1 (one) case approximately per 12,614 missing girls due to sex selection
Number of conviction under the PC&PNDT Act	1 conviction per 1,23,755 missing girls due to sex selection or sex determination
Number of States/Union territories which had not registered a single case under the PC&PNDT Act since 1994	14 ¹

Number of States/Union territories which had not secured as single conviction under the PC&PNDT Act since 1994	23 ²
Top 10 States with cases of infanticide (As per NCRB's Crime in India reports from 2001 to 2015)	i) Uttar Pradesh, ii) Madhya Pradesh, iii) Tamil Nadu, iv) Maharashtra, v) Chhattisgarh, vi) Karnataka, vii) Punjab, viii) Andhra Pradesh, ix) Haryana and x) Gujarat
Top 10 States with cases of foeticide (As per NCRB's Crime in India reports from 2001 to 2015)	i) Madhya Pradesh, ii) Rajasthan, iii) Punjab, iv) Maharashtra, v) Chhattisgarh, vi) Haryana, vii) Uttar Pradesh, viii) Delhi, ix) Karnataka and x) Gujarat
Top 10 states with skewed CSR as per 2011 census	i) Haryana, ii) Punjab, iii) Jammu & Kashmir, iv) NCT of Delhi, v) Chandigarh, vi) Rajasthan, vii) Gujarat, viii) Maharashtra, ix) Uttarakhand and x) Uttar Pradesh
Top 10 states with skewed SRB (Sample Registration System <i>Statistical Report-2013</i>)	Haryana, Punjab, Uttar Pradesh, Delhi, Rajasthan, Jammu & Kashmir, Maharashtra, Gujarat, Bihar and Jharkhand

2.1 The scale of female infanticide

Prior to the invention of technology, female infanticide was widespread in India. Section 315 and Section 316 of the Indian Penal Code criminalised female infanticide. As per the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, Government of India from 1994-2014, a total of 2266 cases of infanticide were recorded i.e. 131 case in 1994, 139 in 1995, 113 in 1996, 107 in 1997, 114 in 1998, 87 in 1999, 104 in 2000, 133 in 2001, 115 in 2002, 103 in 2003, 102 in 2004, 108 in 2005, 126 in 2006, 134 in 2007, 140 in 2008, 63 in 2009, 100 in 2010, 63 in 2011, 81 in 2012, 82 in 2013

and 121 in 2014.³⁶ Among the States, Madhya Pradesh topped with 537 cases followed by Uttar Pradesh with 395 and Maharashtra with 286, among others.³⁷

2.2 The scale of female foeticide in India

The actual number of female foeticide in India is not known. The Ministry of Statistics and Programme Implementation in its report, “*CHILDREN IN INDIA 2012 - A Statistical Appraisal*” of September 2012 stated that faster decline of sex ratio “led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001.”³⁸ This is based on the fact that children population of 0-6 years was 78.83 million in 2001 and it declined to 75.84 million in 2011.³⁹

The report of the Ministry of Statistics and Programme Implementation however does not take into account that decadal growth of population from 1.028 billion in 2001 to 1.21 billion in 2011⁴⁰ which would have also resulted birth of more girls from 2001 to 2011 in actual terms. Further, census is conducted every 10 years and the CSR covering 0-6 years age group excludes those in 07-10 years age group and indeed does not reflect the actual number of missing girls during the decade.

According to the estimates of Asian Centre for Human Rights, during 1991 to 2011 a total of 25,49,3,480 girls went missing as a result of sex selection as explained below.⁴¹

As per the 2011 census report, total child population in the age group of 0-6 years was 7,58,37,152 females against 8,29,52,135 males during 2001 to

36. Crime in India report series 1994 to 2014, National Crime Records Bureau, available at: <http://ncrb.gov.in/>

37. State wise data for two years 1998 and 2000 is not available and hence not included in the total in States of Madhya Pradesh, Maharashtra and Uttar Pradesh

38. CHILDREN IN INDIA 2012 - A Statistical Appraisal, Ministry of statistics and Programme Implementation Government of India available at http://mospi.nic.in/mospi_new/upload/children_in_india_2012.pdf

39. Ibid

40. Census data of 2001 & 2011 available at: <http://censusindia.gov.in/>

41. The claim of the Ministry of Statistics and Programme Implementation Government of India in its report, “*CHILDREN IN INDIA 2012 - A Statistical Appraisal*” of September 2012 that declining ratio of girl share of girls in 0-6 years faster than that of boys of 0-6 years “has led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001” is highly flawed. It does not take into account increase of population from 2001 to 2011 in absolute term which had impact on population growth rate. Further, this is not the correct figures of the missing girls in India as census is conducted every 10 years and covering 0-6 years age group excludes those in 07-10 years age group. The report is available at http://mospi.nic.in/Mospi_New/upload/Children_in_India_2012.pdf

2011.⁴² Based on the World Health Organisation's (WHO) estimate of natural sex ratio of 105 males for every 100 females⁴³, for 8,29,52,135 males, there would have been around 7,90,02,033 females in the age group of 0-6 years instead of 7,58,37,152 girls. This means the total number of missing girls were 3,16,4,881 i.e. 7,90,02,033 females ideally to be born in the age group of 0-6 years minus 7,58,37,152 actually born in the age group of 0-6 years which is about 5,27,480 girls per age group. As the census is conducted every 10 years, it is indispensable to take into account those in the age group of 7-10 years to find out the exact number of missing girls in a decade. If a total of 3,16,4,881 girls in the age group of 0-6 years or 5,27,480 girls per age group went missing, another 21,09,920 girls in the age group of 7-10 years (5,27,480 girls per age group x 4 years) also went missing. This implies that a total of 52,74,801 girls altogether went missing during 2001 and 2011 from 0-10 years.

Similarly, as per 2001 census, there were a total of 78,820,411 females in 0-6 years age group against 84,999,203 males.⁴⁴ Based on the WHO's estimate of natural sex ratio of 105 males for every 100 females⁴⁵, there would have been 8,09,51,622 girls in 2001 census instead of 78,820,411 girls. This means the total number of missing girls were 1,21,31,211 (8,09,51,622 - 7,88,20,411) in the age group of 0-6 or average of 20,21,869 girls missing per age group during 1991 to 2001. Taking into account those in the age group of 7-10 years, another 80,87,476 (20,21,869 x 4) also went missing during 1991 to 2001. This implies that a total of 2,02,18,687 girls were missing altogether during 1991 and 2001 in the age group of 0-10 years.

Therefore, total number of girls missing as a result of sex selection during 1991 to 2011 was 25,49,3,480 or 1,27,4674 girls every year.

The NCRB recorded 1,663 cases of foeticide across the country in the last 15 years from 2001 to 2015. These included 55 cases in 2001, 84 cases in 2002, 57 cases in 2003, 86 cases in 2004, 86 cases in 2005, 125 cases in 2006, 96 cases in 2007, 73 cases in 2008, 123 cases in 2009, 111 cases in 2010, 132

42. Census 2011, <http://censusindia.gov.in/>

43. Health situation and trend assessment: Sex Ratio, WHO
http://www.searo.who.int/entity/health_situation_trends/data/chi/sex-ratio/en/

44. http://censusindia.gov.in/Census_Data_2001/India_at_glance/broad.aspx

45. Health situation and trend assessment: Sex Ratio, WHO
http://www.searo.who.int/entity/health_situation_trends/data/chi/sex-ratio/en/

cases in 2011, 210 cases in 2012, 221 cases in 2013, 107 cases in 2014, and 97 cases in 2015. Among the States, Madhya Pradesh topped with 360 cases followed by Rajasthan (255), Punjab (239), Maharashtra (155), Chhattisgarh (135), Haryana (131), Uttar Pradesh (93), Delhi (69), Karnataka (60), Gujarat (52), Andhra Pradesh (30), Himachal Pradesh (25), Bihar and Jharkhand (10 each), Odisha (6), Kerala, West Bengal and Andaman and Nicobar Islands (5 each), Jammu and Kashmir and Sikkim (4 each), Assam (2), and Tamil Nadu, Uttarakhand, Chandigarh and Dadra and Nagar Haveli (1 each).⁴⁶

Table 2: No of foeticide cases recorded by NCRB

States	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Andhra Pradesh	0	0	0	0	1	5	0	2	6	1	7	1	7	0	0	30
Arunachal Pradesh	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Assam	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	2
Bihar	0	1	0	1	0	0	0	0	5	0	1	1	1	0	0	10
Chhattisgarh	5	0	6	6	21	5	10	9	7	9	21	5	15	5	11	135
Goa	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Gujarat	4	9	4	0	4	6	1	1	3	10	0	7	2	0	1	52
Haryana	3	6	2	15	8	9	4	5	3	2	5	28	21	6	14	131
Himachal Pradesh	0	6	0	2	1	5	1	2	1	0	0	0	2	4	1	25
Jammu & Kashmir	0	2	0	0	0	0	0	0	0	1	1	0	0	0	0	4
Jharkhand	0	0	1	1	0	1	0	0	0	0	1	0	4	1	1	10
Karnataka	1	7	0	4	7	13	7	5	7	4	1	3	0	0	1	60
Kerala	0	2	0	0	1	0	0	0	0	0	0	1	1	0	0	5
Madhya Pradesh	7	4	11	9	12	14	10	8	39	18	38	64	79	30	17	360
Maharashtra	17	10	5	15	4	10	1	2	17	5	12	22	17	7	11	155
Manipur	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Meghalaya	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mizoram	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

46. See NCRB's Crime in India report series from 2001 to 2015

States	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Nagaland	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Odisha	0	0	0	0	0	0	5	0	0	0	0	0	1	0	0	6
Punjab	7	10	11	8	12	22	35	24	23	15	15	25	12	10	10	239
Rajasthan	8	6	12	17	10	25	16	10	12	18	13	37	34	24	13	255
Sikkim	0	0	0	1	1	0	0	0	0	0	0	2	0	0	0	4
Tamil Nadu	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Telangana														2	2	4
Tripura	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Uttar Pradesh	1	1	3	2	0	2	1	2	0	18	12	11	17	11	12	93
Uttarakhand	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
West Bengal	0	0	0	0	0	0	1	1	0	0	0	0	3	0	0	5
A&N Islands	0	0	0	0	0	0	0	0	0	3	0	1	1	0	0	5
Chandigarh	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
D&N Haveli	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Daman & Diu	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Delhi	2	20	2	4	3	7	4	2	0	7	5	2	3	5	3	69
Lakshadweep	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Puducherry	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	55	84	57	86	86	125	96	73	123	111	132	210	221	107	97	1663

Although, the NCRB has been collecting data on foeticide over the years, it started collecting data on female foeticide only from 2014. It recorded 39 cases of female foeticide in 2015 and 50 cases in 2014. The State/UT-wise data relating to female foeticide is given in the table below:⁴⁷

47. Statement of J P Nadda, Minister of Health and Family Welfare, Government of India in the Lok Sabha on 11.12.2015, <http://164.100.47.192/Loksabha/Questions/QResult15.aspx?qref=26479&lsno=16>

Table 3: No of female foeticide cases recorded by NCRB

Sl. No.	States/UTs	Cases registered		
		2014	2015	Total
1	Andhra Pradesh	0	0	0
2	Arunachal Pradesh	0	0	0
3	Assam	0	0	0
4	Bihar	0	0	0
5	Chhattisgarh	2	3	5
6	Goa	0	0	0
7	Gujarat	0	0	0
8	Haryana	4	2	6
9	Himachal Pradesh	3	0	3
10	Jammu & Kashmir	0	0	0
11	Jharkhand	0	0	0
12	Karnataka	0	1	1
13	Kerala	0	0	0
14	Madhya Pradesh	15	8	23
15	Maharashtra	1	9	10
16	Manipur	0	0	0
17	Meghalaya	0	0	0
18	Mizoram	0	0	0
19	Nagaland	0	0	0
20	Odisha	0	0	0
21	Punjab	7	2	9
22	Rajasthan	11	1	12
23	Sikkim	0	0	0
24	Tamil Nadu	0	1	1
25	Telangana	2	6	8
26	Tripura	0	0	0
27	Uttar Pradesh	4	5	9
28	Uttarakhand	1	0	1
29	West Bengal	0	N/A	0
30	Andaman & Nicobar Islands	0	0	0

31	Chandigarh	0	0	0
32	Dadra Nagar Haveli	0	0	0
33	Daman & Diu	0	0	0
34	Delhi	0	1	1
35	Lakshadweep	0	0	0
36	Puducherry	0	0	0
	Total	50	39	89

In two years from 2014 to 2015, the NCRB recorded 59 cases of female foeticide across India. Madhya Pradesh topped in female foeticide with 23 cases, followed by Rajasthan (12), Maharashtra (10), Punjab and Uttar Pradesh (9 each), Telengana (8), Haryana (6), Chhattisgarh (5), Himachal Pradesh (3), Karnataka, Tamil Nadu, Uttarakhand and Delhi (1 each). As per Census 2011, three states with most adverse child sex ratios namely Punjab, Haryana and Jammu & Kashmir had reported 9, 6 and 0 cases respectively.

The 2011 census reflected a grim picture of the missing girls in India and the entire country is affected by declining low child sex ratio as the analysis of the CSR of age group of 0-6 years establishes.

First, as many as in 24 States/UTs, the CSR remains much below the normal or desirable range of 950 or more girls per 1000 boys. These States/UTs include Jammu & Kashmir (862), Himachal Pradesh (909), Punjab (846), Chandigarh (880), Uttarakhand (890), Haryana (834), NCT of Delhi (871), Rajasthan (888), Uttar Pradesh (902), Bihar (935), Nagaland (943), Manipur (936), Jharkhand (948), Odisha (941), Madhya Pradesh (918), Gujarat (890), Daman & Diu (904), Dadra & Nagar Haveli (926), Maharashtra (894), Andhra Pradesh (939), Karnataka (948), Goa (942), Lakshadweep, and Tamil Nadu (943).

Second, 21 States namely Jammu & Kashmir, Uttarakhand, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Nagaland, Manipur, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh, Daman & Diu, Dadra and Nagar Haveli, Maharashtra, Andhra Pradesh and Lakshadweep recorded declining trend of CSR in 2011 census.

Third, the CSR of 9 States/UTs have shown an increase but still far short of the desirable CSR of 950 or above in 2011 census. These include Himachal Pradesh

(909), Punjab (846), Chandigarh (880), Haryana (834), NCT of Delhi (871), Gujarat (890), Karnataka (948), Goa (942) and Tamil Nadu (943). What is disturbing is the fact that CSR of some of the States/UTs are below 900.

Fourth, States/UTs with CSR more than desirable 950 are Arunachal Pradesh (972), Sikkim (957), Mizoram (970), Tripura (957), Meghalaya (970), Assam (962), West Bengal (956), Chhattisgarh (969), Kerala (964), Puducherry (967) and Andaman and Nicobar Islands (968) but five states from the Northeast namely Nagaland, Manipur, Tripura, Meghalaya and Assam had shown a decreasing trend.

Table 4: Child Sex Ratio in India (2001-2011)

S. No.	State/UTS	Child Sex Ratio (0-6)	
		2001	2011
	India	927	919
1	Jammu & Kashmir	941	862
2	Himachal Pradesh	896	909
3	Punjab	798	846
4	Chandigarh	845	880
5	Uttarakhand	908	890
6	Haryana	819	834
7	Nct Of Delhi	868	871
8	Rajasthan	909	888
9	Uttar Pradesh	916	902
10	Bihar	942	935
11	Sikkim	963	957
12	Arunachal Pradesh	964	972
13	Nagaland	964	943
14	Manipur	957	936
15	Mizoram	964	970
16	Tripura	966	957
17	Meghalaya	973	970
18	Assam	965	962
19	West Bengal	960	956

20	Jharkhand	965	948
21	Odisha	953	941
22	Chhattisgarh	975	969
23	Madhya Pradesh	932	918
24	Gujarat	883	890
25	Daman & Diu	926	904
26	Dadra & Nagar Haveli	979	926
27	Maharashtra	913	894
28	Andhra Pradesh	961	939
29	Karnataka	946	948
30	Goa	938	942
31	Lakshadweep	959	911
32	Kerala	960	964
33	Tamil Nadu	942	943
34	Puducherry	967	967
35	A & N Islands	957	968

Changes in CSR at the district level were more pronounced. Out of the total 640 districts in the country, 429 districts had witnessed decline in CSR. Of these, 26 districts recorded drastic decline (of 50 points or more), and 52 districts reported sharp decline (of 30-49 points). An overwhelming number of districts also experienced moderate (of 10-29 points) or marginal (less than 10 points) decline in CSR. As per Census 2011, the decline in CSR had spread from largely urban and prosperous areas to rural, remote and tribal pockets of the country.⁴⁸

The 2011 census data further revealed that CSR fell far more sharply in villages than in urban areas during 2001-2011. Though the urban CSR was far worse than that in rural areas, the fall in CSR in rural areas was around four times more than that in urban areas. Between 2001 and 2011, rural India's CSR fell by 15 points as opposed to urban India's four-point decline.⁴⁹

48. "Missing...Mapping the Adverse Child Sex Ratio in India Census 2011" Office of the Registrar General and Census Commissioner, India <http://www.censusindia.gov.in/2011census/missing.pdf>

49. Sex test hits rural India, UNFPA, July 2011 available at <http://www.unfpa.org/resources/sex-tests-hit-rural-india>

3. STATUTORY PROVISIONS UNDER THE PC&PNDT ACT

Amniocentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in fetuses.⁵⁰ By mid 1980s, it started spreading and NGOs especially women rights groups and health activists and social activists launched a campaign for prohibition of sex selection. The campaign resulted in the State Government of Maharashtra appointing a committee, followed up with formulation of an Act at the state level in 1988. Given the concern of the then Health Secretary of Maharashtra and other organisations this issue was taken up with the Government of India. Acting on the concerns and in order to control the deteriorating situation, the Government of India enacted the Pre-Natal Diagnostic Techniques Act, 1994 (PNDT Act).⁵¹

3.1 The PC&PNDT Act

The Preamble of the PNDT Act, inter alia, provides that the object of the Act is to prevent the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide and for matters connected therewith or incidental thereto. The Act came into force from 1 January 1996. The main purpose of the Act was to prohibit and regulate the use of diagnostics techniques before and or after conception for sex determinations leading to sex selective elimination of foetus. The provision of the Act encompassed creating institutional mechanisms and providing tools to monitor the use of diagnostic techniques for prohibiting sex selection. There was provision of punishment and penalty for those who violate provisions of PNDT Act. The Act has since been amended to make it more comprehensive and keeping in view the emerging technologies for selection of sex before and after conception and problems faced in the working of implementation of the Act and certain directions of Supreme Court in *CEHAT Vs Union of India*. The amended Act came into force with effect

50. Amniocentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in foetuses. Please see <http://wcd.nic.in/Schemes/research/savegirlchild/3.pdf>

51. See <http://www.cehat.org/pndt.html>

from 14 February 2003 and it was renamed as “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act).⁵²

The Statement of Objects and Reasons to the PC&PNDT Act, inter alia, read as under:

“Amendment Act 14 of 2003 – Statement of Objects and Reasons. The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 seeks to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. During recent years, certain inadequacies and practical difficulties in the administration of the said Act have come to the notice of the Government, which has necessitated amendments in the said Act.

1. The pre-natal diagnostic techniques like amniocentesis and sonography are useful for the detection of genetic or chromosomal disorders or congenital malformations or sex linked disorders, etc. However, the amniocentesis and sonography are being used on a large scale to detect the sex of the foetus and to terminate the pregnancy of the unborn child, if found to be female.
2. Techniques are also being developed to select the sex of child before conception. These practices and techniques are considered discriminatory to the female sex and not conducive to the dignity of women.
3. The proliferation of the technologies mentioned above may, in future, precipitate a catastrophe in the form of severe imbalance in male female ratio. The State is also duty bound to intervene in such matters to uphold the welfare of the society, especially of the women and children. It is, therefore, necessary to enact and implement in letter and spirit a legislation to ban the pre conception sex selection techniques and the misuse of pre-natal diagnostic techniques for sex selections and to provide for the regulation of such abortions. Such a law is also needed to uphold medical ethics and initiate the process of regulation of medical technology in the larger interests of the society.

52. See Chapter 19 ‘Gender Issues’, Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

4. Accordingly, it is proposed to amend the aforesaid Act with a view to banning the use of both sex selection techniques prior to conception as well as the misuse of prenatal diagnostic techniques for sex selections and to regulate such techniques with a view to ensuring their scientific use for which they are intended.”

The technique of Pre-Conception sex selection has been brought within the ambit of the amended Act. Use of ultrasound machines has also been brought within the purview of this Act more explicitly. The Central Supervisory Board (CSB) constituted under the Chairmanship of Minister of Health & Family Welfare has been further empowered for monitoring the implementation of the Act. State level Supervisory Boards in the line of the CSB constituted at the Centre, have been introduced for monitoring and reviewing the implementation of the Act in States/UTs. The State/UT level Appropriate Authority has been made a multi member body for better implementation and monitoring of the Act in the States. More stringent punishments are prescribed under the Act so as to serve as a deterrent against violations of the Act. Appropriate Authorities are empowered with the powers of Civil Court for search, seizure and sealing the machines, equipments sand records of the violators of law including sealing of premises and commissioning of witnesses. It has been made mandatory to maintain proper records in respect of the use of ultrasound machines and other equipments capable of detection of sex of foetus and also in respect of tests and procedures that may lead to preconception selection of sex. The sale of ultrasound machines has been regulated through laying down the condition of sale only to the bodies registered under the Act.⁵³

The relevant statutory provisions of the PC&PNDT Act, as amended in 2003, are given below:

- | | |
|-----------|--|
| Section 3 | Provides for regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic clinics through the requirement of registration under the Act, prohibition of sex selection and sale of ultrasound machines to persons, laboratories, clinics, etc. not registered under the Act. |
| Section 4 | Provides that no such place shall be used for conducting pre-natal diagnostic techniques except for the purposes specified |

53. See Chapter 19 ‘Gender Issues’, Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

- and requires a person conducting such techniques such as ultrasound sonography on pregnant women to keep a complete record in the manner prescribed in the Rules.
- Section 5 Requires written consent of pregnant woman for conducting the pre-natal diagnostic procedures and prohibits communicating the sex of foetus.
- Section 6 Provides that no pre-natal diagnostic techniques including sonography can be conducted for the purpose of determining the sex of a foetus and that no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultra sonography for the purpose of determining the sex of a foetus.
- Section 7 – 16 Provides for constitution of Central Supervisory Board and State/UT Supervisory Boards including its structure, term of office, meetings, functions, etc
- Section 17 It deals with constitution of State Appropriate Authority and State Advisory Committee, its powers and functions
- Section 18 to 21 Deals with registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics, certificate of registration by Appropriate Authority, cancellation and suspension of registration and appeal procedure
- Section 22 Provides prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.
- Section 23 Provides for offences and penalties with imprisonment up to three years and fine up to Rs. 10,000. For any subsequent offences, imprisonment of up to five years and fine up to Rs. 50,000/1,00,000. The name of the Registered Medical Practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary
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	action including suspension of the registration if the charges are framed by the court and till the case is disposed of. On conviction, the name of Registered Medical Practitioner is removed for a period of 5 years for the first offence and permanently for the subsequent offence.
Section 24	Provides for punishment for abetment of offence as prescribed under sub-section (3) of section 23.
Section 25	Provides for penalty for 'contravention of any provision of the Act or rules for which no specific punishment is provided' with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.
Section 26	Deals with offences by companies.
Section 27	This section provides that every offence under the Act shall be cognizable, non-bailable and non-compoundable
Section 28	It deals with cognizance of offences under the Act
Section 29	It deals with maintenance of records by Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.
Section 30	It provides for power of the Appropriate Authorities to search and seize records, etc.

3.2 The PC&PNDT Rules

The Government of India notified the PNDT Rules in 1996 and the Government further brought several important amendments in Rules under the PC&PNDT Act as mentioned below:⁵⁴

- Rule 11(2) has been amended to provide for confiscation of unregistered machines and punishment against unregistered clinics/facilities. Earlier

54. See Chapter 19 'Gender Issues', Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

the guilty could escape by paying penalty equal to five times of the registration fee;

- Rule 3B has been inserted providing for the Regulation of portable ultrasound machines and Regulation of services to be offered by Mobile Genetic Clinic;
- Rule 3(3)(3) has been inserted restricting the registration of medical practitioners qualified under the Act to conduct ultrasonography in maximum of two ultrasound facilities within a district. Number of hours during which the Registered Medical Practitioner would be present in each clinic would be specified clearly;
- Rule 5(1) has been amended to enhance the Registration fee for bodies under Rule 5 of the PNDT Rules 1996 from the existing Rs. 3000/- to Rs. 25000/- for Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, and from Rs. 4000/- to Rs. 35000/- for an institute, hospital, nursing home, or any place providing jointly the service of a Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic or Imaging Centre and
- Rule 13 has been amended mandating every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre to intimate every change of employee, place, address and equipment installed, to the Appropriate Authority 30 days in advance of the expected date of such change and seek issuance of a new certificate with the changes duly incorporated.
- In 2012, the PC&PNDT Act Amendment Rules 2012 were amended.

Further, in 2014 the Government of India has notified the following amendments to the PC&PNDT Rules, 1996:⁵⁵

- Six month training curriculum for sonologists notified on 10 January 2014;
- Revised version of Form-F notified on 4 February 2014; and
- Code of Conduct for Appropriate Authorities notified on 26 February 2014.

55. See Chapter 19 'Gender Issues', Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

4. JUDICIAL RESPONSE FOR ENFORCEMENT OF THE PC&PNDT ACT

Judiciary has played the most critical role to bring legal changes and better implementation of the PC&PNDT Act. In fact, it was the judiciary which had to take upon itself the task of giving effect to the PC&PNDT Act due to lack of any action by the Central and State Governments for the effective implementation of the Act. The Supreme Court and the High Courts have issued various directions and pronounced orders to the Central and the State Governments for creating public awareness and for effective implementation of the Act.

In a first historic judgment, the Supreme Court, taking a serious view of the onslaught of sex-selective discriminatory practices by medical fraternity, and connection it may have with the use of pre-natal sex determination, directed the Government of India and State Governments to implement the PC&PNDT Act in all its aspects. The order came following a public interest petition filed by the Centre for the Enquiry of Health and Allied Themes (CEHAT), the Mahila Sarvangeen Utkarsh Mandal (MASUM) and Dr. Sabu George. The Supreme Court noted the fact that the law, which aims at preventing the practice of sex selection and sex determination, was not being implemented at all. The Supreme Court passed various orders from time to time and finally disposed of the petition on 31 March 2003.⁵⁶

However, the directions for proper implementation of the Act were not fully complied with by various State Governments and the Supreme Court had to again intervene to ensure implementation of the Act. On 4 March 2013, the Supreme Court delivered the judgment expressing concerns about female foeticide and the reduction of sex ratio and further how the persons who were required to be involved in such awareness for stopping of female foeticide should equip themselves, and in that context issued a number of directions. After enumerating the directions, the Supreme Court directed all the State Governments to file a status report within a period of three months.⁵⁷ This

56. *Cehat and others v. Union of India*, AIR 2003 SC 3309

57. *Voluntary Health Association of Punjab vs. Union of India & Ors.*

petition was filed in 2006 seeking directions for proper implementation of directions of the Supreme Court in the case of *CEHAT v. Union of India* issued in 2001 and 2003 respectively.⁵⁸

In addition to the Supreme Court, the lower courts also passed important judgments for strict implementation of the PC&PNDT Act. Some of the important judgments are discussed in this report.

4.1 Judgments on the constitutional validity of PC&PNDT Act

The Courts have dealt with constitutional validity of the PC&PNDT Act including violation of the right to life under Article 21 because of the prohibition on selecting sex of the foetus,⁵⁹ the constitutional validity of sections 2 relating to definitions under the Act, 3-A⁶⁰, 4(5)⁶¹ and 6(c)⁶² of the PNDT Act, 2003 on the ground that it violates Article 14 of the Constitution of India and that MTP Act cannot override the PC&PNDT Act,⁶³ the constitutional validity of Section 5(2) and Clauses (a) and (b) of Section 6 of the PC&PNDT Act, 1994 seeking to legalize the sex determination and make it compulsory for the person conducting the sex determination test (specifically ultrasonography) to clearly and in detail disclose the sex of the foetus in the ultrasound report along with the print of the image of the foetus (which will be conclusive proof of the sex of the foetus) till the time it comes up with a better and more effective alternative provision for dealing with the evil practice of sex selection⁶⁴ and non applicability of the PC&PNDT Act in surrogacy process⁶⁵

58. Ibid

59. Vinod Soni and Anr. vs Union Of India (Uol), decided on 13 June 2005,

60. Section 3A provides "Prohibition of sex-selection- No person, including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.

61. Section 4(5) provides "No person including a relative or husband of a woman shall seek or encourage the conduct of any sex-selection technique on her or him or both

62. Section 6(c) provides "no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception."

63. Mr. Vijay Sharma and others v. Union of India Writ Petition No. 2777 of 2005, Bombay High Court, Decided on 06/09/2007

64. Saksham Foundation Charitable Society v. Union of India, Allahabad High Court, decided on 25 April 2014, [http://roundup.manupatra.in/trans/viewdoc.aspx?i=ptiDy4oUEz7W4RhaAAaT6h93RFUeTV40hI1vo81W7g5uCFRP5tL0pktJVchar\(43\)F5g3qk&id=zwKDa4S8QbBCB5kXPhUPwQPfM9Q4uE8GRM1p4fnP6rKDXViI2ZzcDdwQrmw1QqoGechar\(43\)smqymXqKY1hzUeMlc1dw==](http://roundup.manupatra.in/trans/viewdoc.aspx?i=ptiDy4oUEz7W4RhaAAaT6h93RFUeTV40hI1vo81W7g5uCFRP5tL0pktJVchar(43)F5g3qk&id=zwKDa4S8QbBCB5kXPhUPwQPfM9Q4uE8GRM1p4fnP6rKDXViI2ZzcDdwQrmw1QqoGechar(43)smqymXqKY1hzUeMlc1dw==)

65. Amy Antoinette McGregor & Anr v. Directorate Of Family Welfare, W.P.(C)6332/2013, Delhi High Court, 24 October, 2013

Case 1: Vinod Soni and Anr. vs Union of India, June 2005⁶⁶

On 13 June 2005, the Bombay High Court dismissed a petition challenging the constitutional validity of Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act of 1994. The petition filed by a married couple challenged the validity of the PC&PNDT Act on the ground that it violates Article 21 of the Constitution of India.

The petition argued that the provision of Article 21 had been gradually expanded to cover several facets of life pertaining to life and personal liberties which an individual has, as a matter of his fundamental right. In a nutshell, the petition stated that the personal liberty of a citizen of India included the liberty of choosing the sex of the offspring. In other words, the submission was that the right to personal liberty extended to such selection being made in order to determine the nature of family which an individual can have in exercise of liberty guaranteed by Article 21, which in turn included nature of sex of that family which he or she may eventually decided to have and/or developed.

The High Court in its judgment observed:

“6. The Article 21 is now said to govern and hold that it is a right of every child to full development. The enactment namely Sex Selection Act of 1994 is factually enacted to further this right under article 21, which gives to every child right to full development. A child conceived is therefore entitled to under Article 21, as held by the Supreme Court, to full development whatever be the sex of that child. The determination whether at pre conception stage or otherwise is the denial of a child, the right to expansion, or if it can be so expanded right to come into existence. Apart from that the present legislation is confined only to prohibit selection of sex of the child before or after conception. The tests which are available as of today and which can incidentally result in determination of the sex of the child are prohibited. The statement of objects and reasons makes this clear.”

The High Court noted that *“The right to life or personal liberty cannot be expanded to mean that the right of personal liberty includes the personal liberty to determine the sex of a child which may come into existence”*.

66. Vinod Soni and Anr. v. Union Of India 2005 CriLJ 3408, 2005 (3) MhLj 1131, delivered by Bombay High Court on 13 June 2005

In conclusion, the High Court while dismissing the petition observed as under:

“The conception is a physical phenomena. It need not take place on copulation of every capable male and female. Even if both are competent and healthy to give birth to a child, conception need not necessarily follow. That being a factual medical position, claiming right to choose the sex of a child which is come into existence as a right to do or not to do something which cannot be called a right. The right to personal liberty cannot expand by any stretch of imagination, to liberty to prohibit coming into existence of a female foetus or male foetus which shall be for the Nature to decide. To claim a right to determine the existence of such foetus or possibility of such foetus come into existence, is a claim of right which may never exist. Right to bring into existence a life in future with a choice to determine the sex of that life cannot in itself to be a right. In our opinion, therefore, the petition does not make even a prima facie case for violation of Article 21 of the Constitution of India.”

Case 2: Mr. Vijay Sharma and others v. Union of India, September 2007⁶⁷

On 6 September 2007, the Bombay High Court dismissed a writ petition filed under Article 226 of the Constitution of India by a married couple challenging the constitutional validity of sections 2, 3-A, 4(5) and 6(c) of the PC&PNDT Act on the ground that it violated Article 14 of the Constitution of India.

The petitioners namely Vijay Sharma and Kirti Sharma had two female children and desirous of having a male child. According to them, they can then enjoy the love and affection of both, son and daughter simultaneously and their existing children can enjoy the company of their own brother while growing up if they are allowed to select sex of their child and have a son. The petitioners further argued that couples who were already having children of one sex should be allowed to make use of the pre-natal diagnostic techniques at pre-conception stage to have the child of opposite sex. It was also argued in the petition that under the provisions of the Medical Termination of Pregnancy Act, 1972, termination of pregnancy was allowed under certain circumstances hence there was no

67. Mr. Vijay Sharma and others v. Union of India Writ Petition No. 2777 of 2005, Bombay High Court, Decided on 06/09/2007

reason to impose a blanket ban on determination of sex at preconception stage. It stated if anguish caused by unwanted pregnancy was recognized as ground for termination of the pregnancy under MTP Act, why under PC&PNDT Act anguish caused to a mother who conceives a female or male child for the second or third time was not considered and thus there was discrimination between two women situated in similar position and hence the PC&PNDT Act violated Article 14 of the Constitution.

In its judgment, the High Court held that there can be no comparison between the MTP Act and PC&PNDT Act and there was no violation of Article 14 of the Constitution. The High Court observed *“In our opinion, the object of both the Acts and the mischief they seek to prevent differ. They cannot be compared to canvass violation of Article 14.”* Rejecting the argument of the petitioners to equate the situation of a prospective mother under the MTP Act with the prospective mother under the PC&PNDT Act, the High Court held:

“It is their contention that inasmuch as both these Acts are Central Acts and deal with prospective mothers if by MTP Act certain rights are conferred on a prospective mother, the same cannot be denied to the prospective mother by the said Act. We are unable to accept this submission. Apart from the fact that both the Acts operate in different fields and have different objects acceptance of the submissions of the learned counsel would frustrate the object of the said Act. A prospective mother who does not want to bear a child of a particular sex cannot be equated with a mother who wants to terminate the pregnancy not because of the foetus of the child but because of other circumstances laid down under the MTP Act. To treat her anguish as injury to mental health is to encourage sex selection which is not permissible. Therefore, by process of comparative study, the provisions of the said Act cannot be called discriminatory and, hence, violative of Article 14.

18. It is well settled that when a law is challenged as offending against the guarantee enshrined in Article 14, the first duty of the court is to examine the purpose and the policy of the Act and then to discover whether the classification made by the law has a reasonable relation to the object which the legislature seeks to obtain. The purpose or object of the Act is to be ascertained from an examination of its title, preamble and provisions. We have done that exercise in

the preceding paragraphs and we are of the considered opinion that the said Act does not violate the equality clause of the Constitution.”

While rejecting the challenge, the Bombay High Court observed that the hard realities of Indian social life were in the contemplation of the legislature when the law was enacted. The Bombay High Court held as follows:

“...It cannot be denied that in India there is strong bias in favour of a male child. Various causes have led to this preference. It is felt that son carries the name of the family forward and only he can perform religious rites at the time of cremation of the parents. Sons are said to provide support in the old age. Several socio-economic and cultural factors are responsible for this craving for a son. It is unfortunate that people should still be under the influence of such outdated notions. As long as such notions exist, the girl child will always be unwanted because it is felt that she brings with her the burden of dowry. These hard realities will have to be kept in mind while dealing with the challenge raised to the constitutional validity of a statute which tries to ban sex selection before or after preconception and misuse of the said techniques leading to sex selections. None can be allowed to use the said techniques for sex selection..... if the use of the said techniques for sex selection is not banned, there will be unprecedented imbalance in male to female ratio and that will have disastrous effect on the society. The said Act must, therefore, be allowed to achieve its avowed object of preventing sex selection. In our opinion, the provisions of the said Act which are sought to be declared unconstitutional are neither arbitrary nor unreasonable and are not violative of Article 14. .. That society should not want a girl child, that efforts should be made to prevent the birth of a girl child and that society should give preference to a male child over a girl child is a matter of grave concern. Such tendency offends dignity of women. It undermines their importance. It violates woman's right to life. It violates Article 39(e) of the Constitution which states the principle of State policy that the health and strength of women is not to be abused. It ignores Article 51A(e) of the Constitution which states that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women. Sex selection is therefore against the spirit of the Constitution. It insults and humiliates womanhood. This is perhaps the greatest argument in favour of total ban on sex selection.”

Case 3: Amy Antoinette McGregor & Anr v. Directorate of Family Welfare, Delhi High Court, 24 October, 2013⁶⁸

This petition was filed by two petitioners who were residents of Australia. The petition challenged the PC&PNDT Act as ultra vires with respect to its applicability to surrogacy process. It was contended that the unconstitutionality of the said Act was visible to the class of couples who were not having child/children and wish to have both male and female babies.

The first petitioner was the wife and the second was the husband. Due to some medical problem the first petitioner could not physically conceive a child. After medical examination by best doctors and taking medical advice, they found that the cause was some 'Lupus' and it was an Immuno-Suppressive Stipulation which does not physically and practically allow the embryos of the mother to thrive and properly flourish in her body. The doctors therefore advised her to proceed with a Gestational Surrogacy. It is a procedure by which one woman, the surrogate mother, carries a fertilized donor egg or embryo for the petitioner No.1. It basically involves In-Vitro Fertilization (IVF), which involves mixing of eggs and sperms outside the uterus, followed by implanting the fertilized eggs into the uterus, where the embryo will grow and develop into a baby. For a long time, the petitioners had a desire to have a child but because of the medical problem they could not conceive. Now they thought of using the above technique to get a child. However, for the sake of family balancing they intended to have one girl child and one boy child and for this purpose, in the surrogacy procedure for the petitioners, the prenatal techniques played an essential and important role. According to the petitioners, though they wanted a child, yet they did not want two children of the same sex in view of their principle of balanced family and accordingly they wanted to control the birth of same sex by using the advanced prenatal techniques.

According to the petition, the petitioners made an application to respondent No.1 seeking to forward it to the concerned department and in that application they made a request that the provisions of the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 cannot be made applicable to them and it is also further stated that couples who have no children

68. Amy Antoinette McGregor & Anr v. Directorate Of Family Welfare, W.P.(C)6332/2013, Delhi High Court, 24 October, 2013

and wished to have a male or female children should be allowed to make use of the pre-natal diagnostic techniques to have a child of both sex to balance their family. So these couples could not be treated at par with the couples, who chose the sex of foetus in order to have a male child leading to imbalance in male to female ratio.

On 24 October 2013, the Delhi High Court dismissed the petition challenging the provisions of the Act on the ground of hostile discrimination and unreasonable classification as misconceived. While citing the well settled principles of the Doctrine of Classification, the High Court observed that *“These principles are so well settled that they enjoy the status of being meta principles. These are also principles of classification uniformly declared without exception in all legal jurisdictions where rule of law or principles of equality are the cornerstones of a constitutional democracy.....”*.

Case 4: Saksham Foundation Charitable Society v. Union of India, Allahabad High Court, decided on 25 April 2014⁶⁹

This petition was filed by Saksham Foundation Charitable Society in the Allahabad High Court seeking to challenge the constitutional validity of Section 5(2) and Clauses (a) and (b) of Section 6 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. The petitioner urged the High Court to issue a direction to the Government of India to legalize the sex determination and make it compulsory for the person conducting the sex determination test (specifically ultrasonography) to clearly and in detail disclose the sex of the foetus in the ultrasound report along with the print of the image of the foetus (which will be conclusive proof of the sex of the foetus) till the time it comes up with a better and more effective alternative provision for dealing with the evil practice of sex selection.

The first ground of challenge was that the prohibition of sex determination violated the rights of the unborn child and was, therefore, contrary to Article 21 of the Constitution of India. In the second submission it was stated that only when a compulsory disclosure was made by the medical professional

69. Saksham Foundation Charitable Society v. Union of India, Allahabad High Court, decided on 25 April 2014, [http://roundup.manupatra.in/trans/viewdoc.aspx?i=ptiDy4oUEz7W4RhahAaT6h93RFUeTV40h11vo81W7g5uCFRP5tL0pktJVchar\(43\)F5g3qk&id=zwKDa4S8QbBC8SkXPhUPwQPfM9Q4uE8GRM1p4fnP6rKDXViI2ZzcDdwQrmw1QqoGechar\(43\)smqymXqKY1hzUeMlc1dw==](http://roundup.manupatra.in/trans/viewdoc.aspx?i=ptiDy4oUEz7W4RhahAaT6h93RFUeTV40h11vo81W7g5uCFRP5tL0pktJVchar(43)F5g3qk&id=zwKDa4S8QbBC8SkXPhUPwQPfM9Q4uE8GRM1p4fnP6rKDXViI2ZzcDdwQrmw1QqoGechar(43)smqymXqKY1hzUeMlc1dw==)

conducting an ultrasonography test of the sex of the unborn foetus, can a record be maintained of the sex of the foetus. In the absence of disclosure, it was been submitted, there was only a moral duty of the doctor not to disclose and in consequence, the female foetus was ultimately aborted.

Sub-section (2) of Section 5 of the PC&PNDT Act, which was challenged provided that “(2) *No person including the person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs or in any other manner.*”

While Section 6 of the PC&PNDT Act provided the following:

“6. Determination of sex prohibited.--On and from the commencement of this Act,--

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultra-sonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultra-sonography for the purpose of determining the sex of a foetus;”

The High Court while examining the provisions of the PC&PNDT Act which were challenged in the petition explained the reasons for enactment of these provisions as under:

“3. These provisions were enacted by Parliament in order to prohibit sex selection, before or after conception, and for regulating pre-natal diagnostic techniques for the purpose of detecting genetic abnormalities. The enactment of the legislation is to prevent the use of pre-natal diagnostic techniques which were being and continue to be misused for sex determination. The rapid decline in the ratio of females to the male population is widely attributed to the prevalent practice of sex selection. The prevalence of female foeticide constitutes the most egregious violation of human rights in our society. The Act has been enacted in this background. Sub-section (2) of Section 5 of the Act consequently contains a wholesome prohibition to the effect that no person shall communicate to a pregnant woman or her relatives or to any other person the sex of the foetus

in any manner whatsoever including while conducting pre-natal diagnostic procedures. Similarly, clauses (b) and (c) of Section 6 of the Act ensure that no prenatal diagnostic techniques including ultrasonography shall be conducted for determining the sex of foetus and that no person shall cause or allow to be caused selection of sex before or after conception.”

The Allahabad High Court while dismissing the petition ruled as under:

“14. Having regard to the social evil, which Parliament sought to remedy by enactment of the provisions of the Act, we see no ground to hold that the provisions, which are under challenge, are unconstitutional. Parliament had the legislative competence to enact the law, in any event, under Entry 97 of List-I of the Seventh Schedule. The provisions are not either arbitrary or violative of Article 14 of the Constitution or for that matter, violative of Article 21 of the Constitution. On the contrary, the Act is designed to ensure that the fundamental human right of the mother and of the unborn foetus is not violated by the misuse of sex selection diagnostic procedures, resulting in female foeticide.

15. The alternate submission is a point, which does not relate to constitutional validity, but to legislative policy. The Court would not be justified in interfering with the wisdom of Parliament in implementing a legislative policy in a particular manner. Whether any alternate means would better implement the legislative policy, is for Parliament to determine. The constitutional validity of the Act cannot be struck down on that ground. For these reasons, we find no ground to interfere in these proceedings. The petition is, accordingly, dismissed.”

4.2 Judgements on strict implementation of the PC&PNDT Act

Starting with the *CEHAT and Others v. Union of India to Voluntary Health Association of Punjab vs. Union of India & Ors*, the Supreme Court intervened to ensure strict implementation of the PC&PNDT Act. Indeed, the number of suo motu interventions by the High Court shows the alacrity of the judiciary to eliminate female foeticide.

Case 1: CEHAT and Others v. Union of India, March 2003⁷⁰

This Public Interest Litigation (PIL) was filed by the Centre for Enquiry into Health and Allied Themes (CEHAT), a research organization; Mahila

70. Writ Petition (civil) 301 of 2000, CEHAT and Others v. Union of India

Sarvangin Utkarsh Mandal, a non-governmental organization and Dr. Sabu M. George, a civil society member, bringing to the notice of the Court that although the PNDT Act, 1994 prohibiting sex determination was passed by the Government of India in 1994 and Rules were also framed in 1996, no steps for its implementation was taken either by the Central Government or by the State Governments. It was further pointed out that in Indian society discrimination against the girl child was universal. There had been no change in the mindset that favoured a male child as compared to a female child. The use of modern science and technology prevent the birth of a girl child by sex determination before conception and by sex selection after conception was evident from the 2001 Census figures revealing a greater decline in Child Sex Ratio in the 0-6 years age group in states like Haryana, Punjab, Maharashtra and Gujarat, which are economically better off.

The petitioners urged the Supreme Court, inter alia, to direct the Central Government and the State Governments to implement the provisions of the PNDT Act (a) by appointing appropriate authorities at State and District levels and the Advisory Committees; (b) by ensuring that Central Supervisory Board meets every 6 months as provided under the PNDT Act; and (c) for banning of all advertisements of pre-natal sex selection including all other sex determination techniques which can be abused to selectively produce only boys either before or during pregnancy.

The Supreme Court after calling for data and compliance reports from the Central and State Governments regarding the implementation of the Act passed various orders from time to time on 4.5.2001, 19.9.2001, 7.11.2001, and 11.12.2001.

The Supreme Court finally disposed of the petition on 31 March 2003 giving various directions. The apex Court held that *“In view of the various directions issued by this Court, as quoted above, no further directions are required except that the directions issued by this Court on 4th May, 2001, 7th November, 2001, 11th December, 2001 and 31st March, 2003 should be complied with.”* The Court further directed the Central Government/ State Governments / UTs as under:

- a) For effective implementation of the Act, information should be published by way of advertisements as well as on electronic media. This process

- should be continued till there is awareness in public that there should not be any discrimination between male and female child.
- b) Quarterly reports by the appropriate authority, which are submitted to the Supervisory Board should be consolidated and published annually for information of the public at large.
 - c) Appropriate authorities shall maintain the records of all the meetings of the Advisory Committees.
 - d) The National Monitoring and Inspection Committee constituted by the Central Government for conducting periodic inspection shall continue to function till the Act is effectively implemented. The reports of this Committee be placed before the Central Supervisory Board and State Supervisory Board for any further action.
 - e) As provided under Rule 17(3), public would have access to the records maintained by different bodies constituted under the Act.
 - f) Central Supervisory Board would ensure that the following States appoint the State Supervisory Board as per the requirement of Section 16A.
 1. Delhi 2. Himachal Pradesh 3. Tamil Nadu 4. Tripura 5. Uttar Pradesh.
 - g) As per requirement of Section 17(3)(a), the Central Supervisory Board would ensure that the following States appoint the multi-member appropriate authorities:
 1. Jharkhand 2. Maharashtra 3. Tripura 4. Tamil Nadu 5. Uttar Pradesh

Case 2: Malpani Infertility Clinic Pvt. Vs Appropriate Authority, PNDT Act, September 2004⁷¹

In this Writ Petition filed in the Bombay High Court, the petitioner namely M/s Malpani Infertility Clinic Pvt. Ltd. challenged the order passed by Appropriate Authority suspending the registration of Petitioner's Diagnostic Centre under the PNDT Act. The main contention raised in the petition was that show cause notice, as contemplated under Section 20 (1), an opportunity of hearing as contemplated under section 20 (2) and sufficient reasons as required under Section 20 (3) of the Act, were not afforded to Petitioners before taking the action of suspending registration, making the entire action bad in law.

⁷¹ . AIR 2005 Bom 26, 2005 (1) BomCR 595, (2005) 107 BOMLR 737, 2004 (4)

It was also brought to the notice of the High Court that a Public Interest Petition bearing Writ Petition (Civil) No. 301 of 2001 was filed in the Supreme Court by an N.G.O. CEHAT (Centre for Enquiry into Health and Allied Themes) wherein a grievance was made that in spite of passing the said Act, the activities, which were prohibited under this Act, were going on. The petitioners herein intervened in that matter inasmuch as they were carrying on a Centre, called as a Diagnostic Centre, whose activities could be said to be prohibited under the said Act. They joined as respondent No. 38 in the proceedings before the Supreme Court in July 2003. In the Supreme Court, the petitioners filed an affidavit and defended the sex determination test on the ground of “family balancing” by filing an affidavit, though subsequently another affidavit was filed wherein an apology was tendered and it was stated that only wrong committed by them was to continue the advertisement of such an activity on web site. The Apex Court gave appropriate directions for the implementation of the Act and thereby the petition was disposed of.

Pertinently, as a part of the implementation of the directions of the Supreme Court, the respondents started the prosecution of the petitioner under Section 22(3) of the PNDT Act on 22 July 2003 and then came the impugned order, which was issued by the Appropriate Authority on 7 August 2003.

The Counsel appearing for the petitioners submitted that this order was uncalled for. He further submitted that the only Section to which this order can be related, was Section 20 of the said Act. Sub-section (1) of Section 20 of the said Act requires a show cause notice to be given to the person concerned or to the Centre concerned on a complaint being received or on a suo motu basis by the appropriate Authority. Thereafter, under Sub-Section (2) of Section 20 of the said Act, a hearing was contemplated and thereafter if the Authority is satisfied that there is a breach of the provisions of this Act or the rules that it may, without prejudice to any criminal action, suspend the registration. The counsel also submitted that, in the present case, no notice was given to the petitioners nor there was any hearing and, therefore, the impugned order is bad in law. It was also submitted that the petitioners were no longer carrying on the disputed activities and the only mistake committed by them was not to update the web site.

With respect to the contention of the Counsel of the petitioners with regard to the application of the provisions, the High Court clarified as follows: “As

stated above, he has referred to the provisions of Sub-sections (1) and (2) of Section 20. As against this, it is material to note that Sub-section (3) of Section 20, provides for a suspension of the registration and that power can be exercised notwithstanding anything contained in Sub-sections (1) and (2) for the reasons to be recorded in writing. Mr. Anturkar submitted that even if this Sub-section (3) is pressed into service, that Sub-section requires reasons to be given in writing. In our view, there is a clear reference to the prosecution lodged against the petitioners in the reference clause. The petitioners, very much knew that a Public Interest Petition was filed in the Apex Court. They have filed an affidavit in that proceedings. Thereafter, they had tendered an apology as stated above in July, 2003. Thereafter on 22nd July, 2003, they knew that they were prosecuted. This being the position, if the appropriate Authority refers to that prosecution and issues an order of suspension, in our view, there is a sufficient mention of the reasons for the Authority which have led it to take the action.”

The Counsel of the Petitioners further contended that in the affidavit filed by the Authority, they have stated that this was an action of cancellation. Inasmuch as Sub-section (3) of Section 20 does not provide for a cancellation, this order cannot be considered as an order of cancellation. It can only be treated as an order of suspension which will mean suspension till the hearing and disposal of the prosecution which has been mentioned in the order. The High Court held that *“In our view, such an action has to be permitted to the Authority concerned. If the Authority has some material before it, which, prima facie, it had, at the relevant time, it ought to have such a power to suspend the activities of such a nature. If such power is not read into the Section, the provisions of a welfare enactment will be rendered nugatory. It is only a particular kind of activity that has been stopped and the Authority concerned has seized two machines. The 2nd and 3rd petitioners are Gynecologists and their practice as Gynecologists is not prevented in any manner whatsoever. In a situation like this, where there is a conflict of private interest to carry on a particular activity which the public Authority considers as damaging to the social interest, surely, the power under the Statute has to be read as an enabling power. In the instant case, in our view, Sub-section (3) of Section 20 provides an adequate power to the Authority concerned to suspend the licence.”*

The High Court further clarified that *“Inasmuch as such prosecution has been lodged, if the Public Authority forms an opinion that pending that prosecution, a particular activity should be suspended, we do not think that there is any error on its part and it is not necessary that when the reasons are required to be given in writing,*

there ought to be a detailed discussion. A reference to the prosecution is sufficient as the reason for the action and the same is provided in the order.”

On 17 September 2004, the High Court dismissed the petition for lack of substance.

Case 3: Hemanta Rath v. Union of India and Ors, February 2008⁷²

This Public Interest Litigation (PIL) was filed by one Hemanta Rath following media reports to the effect that there were recoveries of hundreds of skeletons, skulls, body parts of children from places close to various nursing homes and clinics in Odisha, thereby suggesting female foeticide.

The petition stated the failure of both the Central Government and State Government of Odisha to implement the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 as amended in 2003. The petition complained that the provisions of Section 28 become nugatory without constitution of Appropriate Authority. A court can take cognizance of the offence only on a complaint made by the Appropriate Authority under Section 28. The petition sought directions from the High Court for effective implementation of the PC&PNDT Act in the State of Odisha.

In its reply before the High Court, the Ministry of Health and Family Welfare, Government of India stated that it was responsibility of the State of Orissa to take steps as per Sections 17 and 17A of the PC&PNDT Act.

The High Court observed that “the said Act has a broader human rights perspective inasmuch as it has been enacted to prevent the killing of a foetus on a gender bias. This is against the essence of our Constitutional principles”.

In its reply, the State government stated that it had taken a number of steps in view of the report in the newspapers including by lodging cases and the cases were handed over to the State Crime Branch as a result of which arrest of doctors and some of the members of the staff of Nursing Homes and Ultrasound Clinics were made. It was also stated that the State Government had formed a State Task Force Committee to monitor the implementation of Ultrasound Clinics and

72. Hemanta Rath v. Union of India And Ors, AIR 2008 Ori 71 Orissa High Court decided on 14 February 2008

Nursing Homes, State Level Advisory Committee was held on 18-8-2007 and newly constituted State Level Supervisory Board chaired by Minister of Health & Family Welfare was held on 29-9-2007 in order to review and monitor the progress and implementation of the said Act. The District Advisory Committee had also met in different districts to take stock of the situation.

Not satisfied with the reply of the State Government, the High Court stated *“However, it has not been stated in the said affidavit whether the bodies have been created by the State Government under Section 17 of the said Act nor it has been stated whether any steps have been taken under Section 28 of the said Act for filing of complaint. Such complaint can only be filed by the Appropriate Authority. So the petitioner’s grievance is that if appropriate authority has not been created, no complaint can be filed under Section 28 of the said Act appears to be well founded. It has been stated that in Orissa, the male-female ratio is better than in other parts of the State. But this Court is of the view that this cannot be the reason why the provisions of the said Act shall not be implemented.”* Further, the High Court observed *“On perusal of the said affidavit, it appears that the State Advisory Committee if at all has been reconstituted in the month of August, 2007 and the meeting of such Committee was held on 29-9-2007, the Government Notification showing constitution of such a Committee, however has not been disclosed”*.

The High Court ruled that the State was under obligation to implement the PC&PNDT Act. Accordingly, the High Court directed that *“if Appropriate Authorities as contemplated under Section 17 of the said Act and as defined under Section 2(a) of the said Act has been constituted, such Authority must act strictly in terms of the provisions of the said Act. If, however, such Committee has not been constituted, such Committee must be constituted within a period of six weeks from the date of service of the order upon the Chief Secretary of the State. After constitution of the said Committee, it must take strict measures to implement the provisions of the said Act. The said Act has been enacted to serve public purpose and the Constitutional end as is clear from the object of the Act quoted hereinabove. Therefore, the State is under both a statutory and Constitutional obligation to implement the provisions of the said Act.”*

While disposing of the petition, the High Court questioning the delayed response of the State Government directed to strictly implement the provisions of the PC&PNDT Act including to constitute the Committee as per the Act.

Case 4: Suo Moto v. State of Gujarat, September 2008⁷³

On 30 September 2008, the Full Bench of the Gujarat High Court in a path breaking decision in Criminal Reference 4 and 3 of 2008 widened the scope of the term “Appropriate Authority” and recognised the locus standi of any officer authorised by such appropriate authority to file complaint and set the law in motion in case of violations of the provisions of the PC&PNDT Act.

The Full Bench of the Gujarat High Court was deciding the reference made by a single Judge in *Hitesh D. Shaha vs. State of Gujarat* on 19 June 2008. The following issues were referred by the single Judge namely, (i) Whether under the provisions of Section 28 of the Act, a Court can take cognizance of an offence under the Act on a complaint made by any officer authorized in this behalf by the Appropriate Authority, (ii) Whether the provisions of the proviso to sub-section (3) of Section 4 of the Act require that the complaint should contain specific allegations regarding the contravention of the provisions of Section 5 and 6 of the Act, (iii) Whether the burden lies on the Authorities to prove that there was contravention of the Provisions of Section 5 or 6 of the Act, and (iv) Whether any deficiency or inaccuracy in filling Form ‘F’, as required under the statutory provisions, is merely a procedural lapse. The genesis of the reference was the decision of a single bench in the case of *Dr. Manish C. Dave vs. State of Gujarat, (2008) 1 GLR 239*. By this decision a bunch of petitions for quashing criminal complaints filed against Petitioners for the offence punishable u/s 4 and 5 of the Act were allowed.

On analysis and appreciation of the scheme and provisions of the Act and Rules made thereunder, the larger bench of the High Court ruled as under on the issues referred:

- “(i) Under the provisions of section 28 of the Preconception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (“the PNDT Act”), a Court can take cognizance of an offence under the Act on a complaint made by any officer authorised in that behalf by the Appropriate Authority.
- (ii) The proviso to sub-section (3) of section 4 of the PNDT Act does not require that the complaint alleging inaccuracy or deficiency in maintaining

73. 2008 (1) GLH 475

record in the prescribed manner should also contain allegation of contravention of the provisions of section 5 or 6 of the PNDT Act.

- (iii) In a case based upon allegation of deficiency or inaccuracy in maintenance of record in the prescribed manner as required under sub-section (3) of section 4 of the PNDT Act, the burden to prove that there was contravention of the provisions of section 5 or 6 does not lie upon the prosecution.
- (iv) Deficiency or inaccuracy in filling Form F prescribed under Rule 9 of the Rules made under the PNDT Act, being a deficiency or inaccuracy in keeping record in the prescribed manner, it is not a procedural lapse but an independent offence amounting to contravention of the provisions of section 5 or 6 of the PNDT Act and has to be treated and tried accordingly. It does not, however, mean that each inaccuracy or deficiency in maintaining the requisite record may be as serious as violation of the provisions of section 5 or 6 of the Act and the Court would be justified, while imposing punishment upon conviction, in taking a lenient view in cases of only technical, formal or insignificant lapses in filling up the forms. For example, not maintaining the record of conducting ultrasonography on a pregnant woman at all or filling up incorrect particulars may be taken in all seriousness as if the provisions of section 5 or 6 were violated, but incomplete details of the full name and address of the pregnant woman may be treated leniently if her identity and address were otherwise mentioned in a manner sufficient to identify and trace her.”

Accordingly, the Full Bench of the High Court overruled the judgment in *Dr. Manish C. Dave v. State of Gujarat* reported in 2008 to the extent it is inconsistent with the above opinion.

Case 5: Gaurav Goyal v. State of Haryana, July 2009⁷⁴

This Public Interest Litigation (PIL) was filed by a social activist, Gaurav Goyal after large numbers of female foetuses were recovered from a septic tank at Buala Nursing Home, Pataudi in Gurgaon district of Haryana. The petitioner requested the High Court to direct the State Government of Haryana to

74. Gaurav Goyal v. State Of Haryana, Punjab and Haryana High Court decided on 7 July 2009

conduct an inquiry into the 250 illegal abortions of female foetuses and to take appropriate action against the guilty doctors.

Finding merit on the submissions, the High Court directed the Divisional Commissioner, Gurgaon to hold an administrative inquiry into the recovery of female foetuses from the septic tank and also to identify those who prima facie seem to be guilty of any lapses in the discharge of their official duties. The Court also directed the Divisional Commissioner to examine the role of officers responsible for the implementation of PC&PNDT Act and to suggest remedial measures to prevent such incident in future.

In compliance with the above direction, an inquiry was conducted by the Divisional Commissioner, Gurgaon and the report was submitted before the Court. The report had inter alia dealt with the lapses on the part of medical authorities in the implementation and enforcement of the provisions of the PC&PNDT Act and identified four doctors, namely Dr. D. V. Saharan, Civil Surgeon, Gurgaon; Dr. S. S. Dalal, Civil Surgeon, Gurgaon; Dr. M. D. Sharma, DFWO, Gurgaon; and Dr. Jai Narain, SMO, CHC Pataudi, who had neglected in performance of their duties. However, the State Government failed to take appropriate action against the guilty doctors. Accordingly, the High Court directed the State Government to expedite the proceeding, to complete the same within six months and to take appropriate action against all those found to be guilty.

While disposing of the case vide its judgment on 7 July 2009, the High Court also expressed its strong displeasure when the failure of the State Government of Haryana to publish notifications under the Preconception and Prenatal Diagnostic Techniques (Prohibition of sex selection) Act, 1994 in the official gazette was brought to its attention. The High Court noted *“All that we need say is that non publication of an important statutory notification in the official gazette adversely reflects upon the official machinery of the State Government charged with implementing an important legislation like the PNDT ACT. It is regrettable that for a period of over 12 years non publication of the notification in question never came to the notice of the authorities concerned.”*

Case 6: Court on its own motion v. State of Punjab & Ors, July 2009⁷⁵

This Public Interest Litigation (PIL) was registered by the Punjab and Haryana

75. Court on Its Own Motion v. State Of Punjab And Others, Punjab and Haryana High Court, 31 July, 2009

High Court on its own motion pursuant to news item with the caption “Effort to improve sex ratio in for a huge blow” published in *The Hindustan Times* on 17 November 2007. In the news report it was stated that the sex determination kits were entering the state of Haryana. Alarmed by the declining Child Sex Ratio in the state and to curb the social menace of pre-natal sex selection and sex determination, the High Court took cognizance of the newspaper report on its own motion and issued notices to the Union of India and State Governments.

In response, the Director, Health Service, Family Welfare, Punjab had stated that various teams were constituted and surprise inspections/raids were undertaken and that no sex determination kits were available in the State of Punjab. The Chairperson of the State Appropriate Authority constituted under Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 cum Director General, Health Services, Haryana also submitted a status report and stated therein that strict instructions were issued to concerned officers to keep a strict vigil on use of baby gender determination kits in all the districts of Haryana. It was further submitted that all Civil Surgeons posted in the districts of Haryana reported that kits were neither used nor available in the local market in the respective districts. It was further stated that import of such kits is not permitted in India by Drug Controller General, India.

In its response, a detailed affidavit was filed by the Director (PNDT), Ministry of Health and Family Welfare, Government of India. The Ministry stated that the PNDT wing of the Ministry was concerned with the falling girl child sex ratio. Various steps were also undertaken by the Ministry. The High Court was further informed that the PNDT Act and its rules were amended and the Act was made more comprehensive and the enforcement authorities had been empowered with the necessary teeth. The Ministry also stated that a Central Supervisory Board was constituted to monitor falling child sex ratio and periodical meetings were being held under the chairpersonship of Minister of Health and Family Welfare. It was also averred that necessary programme to educate, generate awareness and sensitize public opinion makers was being carried and necessary expenses for the same were being provided. It was further mentioned that State Governments had been funded through Rural Child Health Programme for implementation plan drawn for implementation of various activities under the PNDT Act and to give incentive to birth of girl child. It was also informed that sensitization on sex ratio issue was made part of the curriculum for ANM (Auxiliary Nurse

Midwife) under National Rural Health Mission scheme. Furthermore, a National Inspection and Monitoring Committee was constituted and a National Support and Monitoring Cell consisting of social scientists to evolve mechanism that the actual wrong doers were apprehended, is active. Furthermore, an annual report on the implementation of PNDT Act was published and a website to inform the public about the information and activities undertaken by the Ministry of Health and Family Welfare regarding PNDT Act to be launched separately. A toll free telephone under the PNDT Division of the Ministry, to lodge complaints and assess information, was being installed and awareness programme under the scheme 'Save the Girl Child Campaign' was being propagated.

The High Court after perusal of the affidavit observed that PNDT Wing of the Ministry of Health and Family Welfare is fully conscious regarding availability of Sex Determination Kits in the grey market and through website channels and has drawn a comprehensive plan to block all the sources, from which such kits can be available. In order to block the offending websites, Union Secretary, Health and Family Welfare had requested the Secretary Home to prevail upon the Computer Emergency Response Team (CERT In). The Cabinet Secretariat was also approached to convene a meeting of all the concerned Secretaries. Union Department of Health and Family Welfare was also contemplating to approach Ministry of Postal and Customs to intercept Sex Determination Kits imported from abroad.

The affidavit further expressed Government's worry that availability of Gender Testing Kits/ Sex Determination Kits through www.pregnancystore.com advertisements had assumed alarming proportion in the country, especially in the elite states like, Delhi and Punjab. It states that this was likely to effect the Government's efforts in curbing female foeticide, containing the declining child sex ratio and ushering in a healthy gender ratio in the country. Therefore, to curb availability of such kits, the department had sought the cooperation of the Customs Department and had approached Central Board of Excise and Customs, Department of Revenue not to allow import of Gender Testing Kits/ Sex Determination Kits from abroad and if any such article, through any mode, was received, same be intercepted and confiscated.

Pursuant to direction by the High Court, the Central Board of Excise and Customs also filed an affidavit. In the affidavit, it was stated that the Director

General of Revenue Intelligence had been asked to collect data and identify the import of such kits to enable the Department to take action against them.

The High Court after perusal of the affidavits expressed its satisfaction over the actions taken by the officials of the Government of India and the two State Governments. On 31 July 2009, the High Court while disposing of the petition expressed hope *“that all the concerned officials of the State Governments shall act in harmony and continue with their strenuous efforts to eliminate availability of Gender Testing Kits/ Sex Determination Kits, so that the laudable object and mission of the Governments stated in their affidavits to curb female foeticide is realized.”*

Case 7: Dr. Mrs. Sudha Samir v. State of Haryana and others etc, February 2010⁷⁶

This batch of petitions was filed in the High Court of Punjab and Haryana challenging the order of suspension of registration under the Pre-Conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. The suspension had been done after a show cause notice was issued under Section 20, when on an inspection, the authorities had come to a provisional conclusion that the petitioners were indulging in acts that were prohibited under the Act. Thereafter, an appeal was filed by all the petitioners under Section 21 of the Act, which confirmed the decision of the appropriate authority. Hence, the petitioners filed this batch of writ petitions, challenging the decision.

The petitions contended that the appropriate authority constituted under the Act shall be notified in the official gazette and whereas the gazette publication was made only on 21 July 2009. At the time when the impugned show cause notices were issued and the action for suspension had been taken, the gazette notification had not been made and therefore, the entire action under Section 20 of the Act ought to fail.

The response to this contention by the counsel for the respondent was that the State Government of Haryana had issued an ordinance to validate certain acts done by various authorities prior to the gazette notification through the Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Haryana Validation Ordinance, 2009 issued on 21 July 2009.

76. Civil Writ Petition No. 18365 of 2009, Punjab and Haryana High Court, Decided on 03/02/2010

The High Court observed that *“The ordinance purports to validate of the acts and proceedings done by appropriate authorities on the ground that the notification of the Act had been made on 24 October 1997 and the ordinance was intended to save certain acts taken by the appropriate authority, which under Section 17(2), he is competent to do. It is seen that the ordinance was subsequently introduced as a Bill on 30 July 2009 in the State Assembly and also brought as an enactment subsequently.”*

The counsel for the petitioners sought to contend that the ordinance itself was repealed and that the 2009 ordinance will not have any effect. The High Court held *“It must be noticed that the ordinance was repealed in order to substitute it by an enactment passed in an Assembly through a Bill. When the substituted enactment itself is not in challenge which validates the acts done by the appropriate authority even prior to the gazette publication on 21.07.2009, the petitioners’ challenge to the show cause notices and the substantial orders of the competent authority cannot survive for adjudication before this Court.”*

However, the High Court observed that the petitioners can seek remedy to challenge the validity of the Act itself. But so long as the Act is in its place, the action initiated by the appropriate authority cannot be assailed on the ground that when it was done, the gazette notification had not been issued.

Accordingly, the High Court dismissed the writ petitions on 3 February 2010.

Although, the High Court dismissed the petitions on technical ground, the case reflect adversely on the inaction and lackadaisical manner in which the State Government of Haryana functions in implementation of this important piece of social legislation.

Case 8: Dr. Devender Bohra v. State of Haryana and others, April 2010⁷⁷

In this petition, the subject of challenge was the suspension of registration of a sonogram machine installed in the hospital run by the petitioner and sealing of the equipment by the appropriate authority.

On 27 November 2008, the petitioner was issued a notice by the appropriate authority directing him to make an arrangement of qualified sonologist as per

77. Dr. Devender Bohra v. State of Haryana and others, Civil Writ Petition No.14759 of 2009, Punjab and Haryana High Court, 27 April 2010

the provisions of the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act. The suspension notice was subject of a challenge in appeal to the Government under Section 21 before the appropriate authority and it was dismissed by order dated 13 March 2009. The suspension notice and the order passed in the appeal were the matters in challenge through this writ petition.

By an ordinance issued in 2009 called the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Haryana Validation Ordinance, 2009, the appropriate authority had been notified and it validated all acts done in the name of appropriate authority even prior to the date of the notification. The ordinance was also the subject of challenge. But as no arguments were advanced, the High Court proceeded to dispose of the writ petition only in so far as it contains the challenge to the order of suspension of the registration under the PC&PNDT Act.

According to the petition, at the time when the registration of the equipment was made in the hands of the petitioner, there had been a medical practitioner, who had held a medical qualification recognized under the Indian Medical Council Act. But subsequently he had resigned from the petitioner's hospital and there had been no Sonologist or imaging specialist resulting in the suspension of the licence. The petitioner's challenge was on the basis that he had a medical qualification recognized by the Central Council of Indian Medicines. According to the petitioner, as a person, who has a BAMS (Bachelor in Ayurvedic Medicine & Surgery) qualification, he shall be permitted to have the registration in the same manner as the person, who has a MBBS (Bachelor of Medicine and Bachelor of Surgery) degree. The petitioner contended that the suspension of licence amounted to gross breach of fundamental right to equality and operated as discriminatory. According to the petitioner, the equipment was necessary for the very same reason as an allopath practicing medicine and the petitioner could not be denied the right of registration and the use of the equipment.

Significantly the writ petition did not challenge the vires of the Act or the rules which had been framed thereunder. The challenge, however, was to a notification issued under Section 17(2) with retrospective effect which also was not pressed at the time of arguments.

The petitioner's counsel argued that the Indian Medical Council Act and the Indian Medicine Central Council Act of 1970 fulfill the same object and, therefore, even a person registered as a practitioner under Indian Medicine Central Council Act shall also be competent to install a sonogram.

However, the High Court held *"The entire submissions of the counsel appearing for the petitioner are misdirected in assuming that since two enactments contained a same objective namely of constituting a medical council and for maintenance of certain registration of practitioners, there cannot be a discrimination between the practitioners of Indian Medicine and practitioners of Allopathic system. If the Act requires the possession of certain degrees and if the petitioner does not possess the same, there ends the issue and the question of allowing the petitioner to continue the registration does not arise. It is a simple open and shut case of a petitioner, who is not a 'medical practitioner' and who is not therefore registered under the Indian Medical Council Act of 1956."*

The High Court further held, *"It may be that a practitioner under the Indian medicine system may have a requirement for detection of foetus abnormalities for appropriate treatment, but if the Act requires the person to have a particular qualification to possess the sonogram, it will be futile to question the legislative wisdom in a reply to a notice for suspension of registration that he should be treated as competent to make use of the equipment for the purpose of registration. Without a challenge to the provisions of the Act or the Rules themselves, the petitioner has no legs to stand. The petition is wholly misconceived, for, even at the time of arguments, the learned counsel made a dogged insistence in pressing for a parity in treatment of a medical practitioner registered under the Indian Medical Council Act and a practitioner registered under the Indian Medicine Central Act. The right to use an ultrasound machine by a BAMS degree holder through a notification issued by the Deputy Secretary, Health on behalf of the Secretary to Government, Haryana, on 12.04.2004, is used by the petitioner to justify that if he had been permitted to use the ultrasound machine by the notification, the respondents would be estopped from passing impugned order. A notification by the State allowing the user cannot expand the legislative intent or the Rules which have been framed under the Act. The notification must be understood in the strictest sense of making possible a practitioner of Indian medicine having a BAMS degree to assess the values or interpreting the imaging secured through the ultrasound machines. It cannot be used for legitimizing even the possession of the equipment without a registration under the relevant rules or claim that registration must be made de hors the rules. The*

notification issued by the Government in the year 2004 is no more than a certification of competence to use the modern technological innovations and it cannot displace the requirement of Rule 3 of the PNDT Act.”

On 27 April 2010, the High Court dismissed the writ petition as frivolous with a fine of Rs.10,000.

Case 9: State Chapter v. 5 State Appropriate Authorities, November 2011⁷⁸

This petition was filed by Radiological & Imaging Association (State Chapter) challenging the decision dated 28 July 2011 passed by the Appropriate Authority i.e. the Medical Health Officer of Dahisar Ward. The petitioner had also prayed that Respondent nos.2 to 5 [Respondent 2 State of Maharashtra]; Respondent 3 (Medical Officer of Health, Brihanmumbai Mahanagarपालिका, Dahisar Ward, Mumbai); Respondent 4 (Additional Director, Health Services, Kutumb Kalyan Bhavan, PNDT Division, Pune) and Respondent 5 (State Appropriate Authority, Arogya Bhavan, Mumbai)] may be directed to frame appropriate guidelines as regards the circumstances and manner of sealing the machinery and the modus operandi for removal of the seal by way of clarification of the provisions of Section 30 of the Pre-Conception and Pre-Natal Diagnostics Techniques (Prohibition of Sex Selection) Act, 2003.

According to the petitioner, when the portable ultra sound sonography machine was permissible for treating the patients, direction given by the Officer restraining the members of the Petitioner-Association from taking the machine out of the premises of the institution was arbitrary, illegal, and in violation of Articles 14 and 21 of the Constitution of India. The petitioner's counsel argued that a patient whose physical condition is serious and if he is unable to travel immediately to the hospital, he could get the medical benefit immediately, if he was subjected to sonography in a given case at his residence. It was submitted that it was not open for the Authority to restrict the portable sonography machine as sonography machine is meant for taking it from one place to another like a laptop. The counsel further vehemently submitted that such type of restriction was de-hors the provisions of PC-PNDT Act, 1994. It was submitted that in a given case there might be a patient who might not be pregnant lady and in such case also it was necessary to do sonography of such patient and if

78. State Chapter v. 5 State Appropriate Authority, WRIT PETITION (L) NO.1939/2011

there was restriction on the movement of a portable sonography machine such patient would be deprived of getting the benefit of sonography immediately. It was submitted that the restriction was based on an apprehension of misuse of such portable machine, however, such misuse was possible in the clinic itself. It was contended that the impugned communication was not consistent with the provisions of law. The restrictions imposed were without any authority of law and in view of the same the impugned communication was required to be set aside and the Court might ask the concerned authority to frame the guidelines in this behalf. Union of India as well as the State of Maharashtra should frame the guidelines in this behalf and they should frame appropriate policy decision regarding the sealing of all sonography machines.

Whereas the counsel appearing for Union of India submitted that the concerned officer of the Corporation had taken correct decision by restricting the transportation of such ultra sound sonography machine outside the said Institute as according to him if such transportation is permitted, there was every chance of such machines being misused with a view to find out the sex of the child in the womb. The AGP appearing for the State of Maharashtra while vehemently opposing the petition submitted that there were chances of misuse if the portable sonography machine was allowed to be taken out of the Institute and if there was some apprehension that the machine was likely to be misused, there was nothing wrong on the part of the concerned officer who issued such communication. While the Counsel appearing for Respondent 5 argued that, if such portable sonography machine was allowed to be taken out of the Institute there was great danger of it being misused. He also submitted that in the city of Mumbai sex ratio of male and female had come down by 30% in last 10 years and the actual ratio was 1000 boys and 880 girls.

The High Court upon hearing the arguments and counter arguments and considering the PC&PNDT Act observed *“.....in a case where a patient cannot wait till he is taken to the particular clinic for sonography and the portable machine has been taken to this residence, the possibility of evil and misuse cannot be ruled out. In our view, if the society is fully made conscious and change in attitude takes place to forget the distinction between male and female, till then all remedial measures are required to be taken to curb the misuse of modern technology which is likely to be misused to achieve the dishonest and illegal purpose. It may be true as argued by the counsel for the petitioner that even in an Institute also there are possibility of such misuse of*

sonography machine. So far as the hospitals are concerned, even if a particular doctor is doing illegal activities, it is at his own risk and appropriate data is available in such a case which cannot be possible if the machine is taken out of the principal place.”

The High Court ruled that the direction issued by the Authority was in consonance with the provisions of the Act and the same was issued with a view to prevent possible misuse of such machine. The Court held:

“In our view even if there is only one case out of millions this Court may not interfere with such a policy decision which in our view is the most scientific and in the interest of the society. Considering the said aspect, it cannot be said that any fundamental right either under Article 14 or 19 is violated as the Petitioner-Association can carry out its activity within the Institute itself and at the recognized place. The restriction imposed by the concerned officer is the most reasonable and in public interest and does not violate the fundamental right of the petitioner in any manner. Ultimately the public interest at large is required to be taken into account and the decision taken by the concerned officer is in consonance with the provisions of the Act.”

The High Court further held that the MHO, an appropriate, authority under the Act had issued the directions under sections 17 and 17-A of the Act in respect of implementation of the Act. Thus, the directions were issued by the MHO in public interest on the basis of his experience and the collection of data of the instances he had come across about the misuse of the ultra sound sonography machine.

Accordingly the High Court dismissed the petition on 17 November 2011.

Case 10: Voluntary Health Association of Punjab vs. Union of India & Ors, March 2013⁷⁹

On 4 March 2013, the Supreme Court had delivered the judgment in *Voluntary Health Association of Punjab vs. Union of India & Ors. [(2013) 4 SCC 1]* expressing its concerns about female foeticide and the reduction of sex ratio and further how the persons who are required to involve in such awareness for stopping female foeticide should equip themselves, and in that context had issued number

79. (2013) 4SCC 1, Voluntary Health Association of Punjab vs. Union of India & Ors

of directions. After enumerating the directions, the Supreme Court directed all the State Governments to file a status report within a period of three months.

This petition was filed in 2006 in view of the lack of proper implementation of directions of the Supreme Court in the case of *CEHAT v. Union of India* issued in 2001 and 2003 respectively.

The Supreme Court took note of the decline in the female Child Sex Ratio across the country which was a result of the misuse of pre-natal diagnostic techniques and the improper implementation of the PC&PNDT Act meant to prevent such misuse. The personal attendance of the Health Secretaries of the States of Punjab, Haryana, NCT Delhi, Rajasthan, Uttar Pradesh, Bihar and Maharashtra was secured to examine what steps had been taken for the proper and effective implementation of the provisions of the Act as well as of the various directions issued by the Supreme Court in its earlier decisions. It was noticed by the Court on the basis of the data furnished by them that though the Union of India has constituted the Central Advisory Board and most of the states and Union Territories have constituted State Supervisory Boards, Appropriate Authorities, Advisory Committees, etc., their functioning is far from satisfactory as is evident from the Census figure of 2011 showing a decline in the female Child Sex Ratio. The Court took notice that the provisions of the Act were not being implemented properly and effectively by all the states except for the State of Maharashtra. The reasons for the same were found to be the lack of proper supervision and monitoring of the mushrooming growth of sonography centres. It was also found that the ultrasonography machines used for sex determination were seldom seized and even if seized, they were being released to the violators of the law, only to repeat the crimes. Moreover, very few cases had resulted in convictions and were pending disposal for several years in many courts.

The Supreme Court observed *“The Union of India has filed an affidavit in September 2011 giving the details of the prosecutions launched under the Act and the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition on Sex- Selection) Rules, 1996 (for short ‘the Rules’), up to June 2011. We have gone through the chart as well as the data made available by various States, which depicts a sorry and an alarming state of affairs. Lack of proper supervision and effective implementation of the Act by various States, are clearly demonstrated by the details made available to*

this Court. However, State of Maharashtra has comparatively a better track record. Seldom, the ultrasound machines used for such sex determination in violation of the provisions of the Act are seized and, even if seized, they are being released to the violators of the law only to repeat the crime. Hardly few cases end in conviction. Cases booked under the Act are pending disposal for several years in many Courts in the country and nobody takes any interest in their disposal and hence, seldom, those cases end in conviction and sentences, a fact well known to the violators of law. Many of the ultra-sonography clinics seldom maintain any record as per rules and, in respect of the pregnant women, no records are kept for their treatment and the provisions of the Act and the Rules are being violated with impunity.”

The Supreme Court also noticed that despite notification for amending the Act and regulating usage of mobile ultrasound machines capable of detecting the sex of the foetus, including portable ultrasonic machines “*many of the clinics are totally unaware of those amendments and are carrying on the same practises.*”

Directions of the Court:

On 4 March 2013, the Supreme Court issued the following directions:

1. The Central Supervisory Board and the State and Union Territories Supervisory Boards, constituted under Sections 7 and 16A of PC&PNDT Act, would meet at least once in six months, so as to supervise and oversee how effective is the implementation of the PC&PNDT Act.
2. The State Advisory Committees and District Advisory Committees should gather information relating to the breach of the provisions of the PC&PNDT Act and the Rules and take steps to seize records, seal machines and institute legal proceedings, if they notice violation of the provisions of the PC&PNDT Act.
3. The Committees mentioned above should report the details of the charges framed and the conviction of the persons who have committed the offence, to the State Medical Councils for proper action, including suspension of the registration of the unit and cancellation of licence to practice.
4. The authorities should ensure also that all Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics, Infertility Clinics, Scan

- Centres etc. using pre-conception and pre-natal diagnostic techniques and procedures should maintain all records and all forms, required to be maintained under the Act and the Rules and the duplicate copies of the same be sent to the concerned District Authorities, in accordance with Rule 9(8) of the Rules.
5. States and District Advisory Boards should ensure that all manufacturers and sellers of ultra-sonography machines do not sell any machine to any unregistered centre, as provided under Rule 3-A and disclose, on a quarterly basis, to the concerned State/Union Territory and Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A(2) of the Act.
 6. There will be a direction to all Genetic Counselling Centres, Genetic Laboratories, Clinics etc. to maintain forms A, E, H and other Statutory forms provided under the Rules and if these forms are not properly maintained, appropriate action should be taken by the authorities concerned.
 7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultra-sonography clinics, in three months time.
 8. Steps should be taken by the State Governments and the Union Territories to educate the people of the necessity of implementing the provisions of the Act by conducting workshops as well as awareness camps at the State and District levels.
 9. Special Cell be constituted by the State Governments and the Union Territories to monitor the progress of various cases pending in the Courts under the Act and take steps for their early disposal.
 10. The authorities concerned should take steps to seize the machines which have been used illegally and contrary to the provisions of the Act and the Rules thereunder and the seized machines can also be confiscated under the provisions of the Code of Criminal Procedure and be sold, in accordance with law.
 11. The various Courts in this country should take steps to dispose of all pending cases under the Act, within a period of six months. Communicate this order to the Registrars of various High Courts, who will take

appropriate follow up action with due intimation to the concerned Courts.

The Supreme Court directed all the State Governments to file a status report within a period of three months.

Case 11: The Court on its own motion v. the State of Jharkhand, July 2014⁸⁰

This Public Interest Litigation (PIL) was registered by the Jharkhand High Court on its own motion pursuant to news item published in *The Hindustan Times* (English Edition) on 3 July 2014 regarding alarming increase in pre-natal sex determination amongst the pregnant women in Jharkhand.

The High Court took *suo motu* cognizance on 7 August 2014 and registered it as a Public Interest Litigation. In the order, the High Court observed as under:

“2. The highest number of such abortions has been reported from East Singhbhum i.e. 23.6% and in Ranchi 17%. The average sex ratio at birth in Jharkhand is 928 females per 1000 males as per Annual Health Survey, 2011-12. The low sex ratio at birth and an increase in number of abortions after sex determination tests at ultrasound centres in Jharkhand indicate that the government measures to curb pre-natal gender determination have gone in a toss. It is also reported in the above newspaper that the surge in pre-natal sex determination is attributed to the fact that since 2012 the Health Department and its nodal organization Jharkhand Rural Health Mission Society (JRHMS) have not conducted any large scale drive to enforce the laws against such tests. The Health Department raided 404 rogue centers and sealed 39 of them last year, but most of the owners have been left off after warnings.”

Further the High Court directed the respondents to inform the Court about the following points:

- i. The registration obtained by those Genetic Counseling Centre/Genetic Laboratory/Genetic Clinic functioning in the State of Jharkhand.
- ii. Number of Genetic Counseling Centre/Genetic Laboratory/Genetic Clinic functioning in the State of Jharkhand.

80. W.P (PIL) No. 3504 of 2014 available at <https://indiankanoon.org/doc/94942314/>

- iii. The action taken in respect of those centres, which are functioning without registration.
- iv. Other relevant details

In compliance, the State of Jharkhand filed counter affidavit stating therein that no Genetic Counseling Centre/Genetic Laboratory/ Genetic Clinic was registered or functional in the State of Jharkhand and there were two other bodies like IVF centers/Infertility cure centers using equipments/technique capable of making sex selection before or after conception. Total number of registered Ultrasonography Clinic in the State was 695. It was further submitted that the direction to all District Appropriate Authorities were issued to submit action taken against inspected and sealed clinics and also instructions were given for awareness and inspection of the Ultrasonography.

It was also brought to the attention of the High Court about the judgment of the Supreme Court in the case of *Voluntary Health Association of Punjab v. Union of India & Ors* reported [2013 4 SCC 1] wherein the Supreme Court issued several directions for implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 to all the State Government and also to file compliance report within three months.

In the light of the above Supreme Court judgment, the High Court observed *“From perusal of the aforesaid judgment it appears that the subject matter of the present PIL is also the subject matter before the Hon’ble Supreme Court and the Hon’ble Supreme Court is also monitoring the case. The present Public Interest Litigation is disposed of with a direction to the respondents to make strict compliance of the order passed in Voluntary Health Association of Punjab (Supra.) in its letter and spirit.*

Case 12: S. K. Gupta v. Union of India & ors, April 2015⁸¹

This Public Interest Litigation (PIL) was filed by an Advocate of the Rajasthan High Court deeply concerned with the increasing crime of female foeticide and the consequent missing girl child in the State of Rajasthan, in which the Implied Sex Ratio at Birth had gone down from 924 girls to 1000 boys in 1994-2000, to 897 girls per 1000 boys in 2004-10. The petitioner sought directions

81. S.K.Gupta v. Union of India & ors [D.B. Civil Writ Petition (PIL) No.3270/2012], Rajasthan High Court, 15 April 2015

from the High Court, among others, to take steps, some of which were for implementation of the laws and the others to wake up the State Government to its statutory responsibility, against the crime.

As per the petition, the Child Sex Ratio was declining consistently from 916 girls per 1000 boys in 1991 to 909 in 2001 and 888 in 2011 in Rajasthan. The decline was significantly higher in the urban areas, though both rural and urban areas recorded child sex ratio of girls below 900 in accordance with the Census of 2011. The Census also revealed that in the Districts like Dausa, Tonk, Jaipur and Sikar, the child sex ratio of girls had further plummeted by 35 points. The problem had worsened in Sikar and Jhunjhunu with these becoming the hotspots of declining girl child ratio in the State. In addition to these districts, the ratio had dipped below 900 in Nagaur, Jodhpur, Pali, Jalore and Sirohi.

In this writ petition, the High Court had been passing orders beginning from 30 March 2012. Some of the orders are as under:

30 May 2012: The High Court directed the trial court to frame charges in the pending cases, wherever charges have not been framed, within a period of two months, seeking extension of time from the High Court in case of any delay in framing charges.

11 May 2012: Noticing thatailable and non-bailable warrants have been issued against large number of accused, which are pending compliance, the Director General of Police was directed to ensure service of theailable and non-bailable warrants, with direction to SPs of all concerned Districts to take necessary steps. The Registrar General was directed to look into the cases which are pending at the stage of framing of charges and submit compliance report. Direction was issued for completion of trial within six months.

23 May 2012: Directions were issued to use hi-tech software like silent observer, active tracker etc., so that sonography centres may be forced to have a complete record of each sonography test for inspection. They may also be required to transmit online duly and completed filled in "F" Form to the appropriate authorities within 24 hours of the sonography. Direction was issued to connect active tracker to each sonography centre machine within four months and in case of failure, the non-compliance

will be treated as contempt of court under Article 215 of the Constitution of India as well as under Contempt of Courts Act, 1971.

28 July 2014: The progress reports submitted by the Special PC&PNDT Courts at Ajmer, Bharatpur, Bikaner, Jodhpur Metropolitan, Jaipur Metropolitan, Kota and Udaipur were perused and it was found that information has not been updated. The compilations were directed to be updated, giving next dates and also the likely time by which the proceedings would be disposed of finally.

16 September 2014: The High Court perused the report of the Registrar General dated 11.9.2014 relating to the PC&PNDT Courts at Ajmer, Bharatpur, Bikaner, Jodhpur Metropolitan, Jaipur Metropolitan, Kota and Udaipur and noticed that except for a few cases the charge sheets have not been filed in the pending cases and that in some of the cases, the proceedings have been stayed at the stage of revision by the District Judges. The Court noticed that not a single conviction had been recorded in the State of Rajasthan. The Court allowed the counsel appearing for the parties to inspect the files and to find out the reasons and deficiencies on which the trials were being delayed. The Registrar General was required to submit next report by 15.11.2014.

25 November 2014: The High Court perused the reports of the PC&PNDT Courts at Ajmer, Bharatpur, Bikaner, Jaipur Metropolitan, Jodhpur Metropolitan, Kota and Udaipur and found that in more than 50% cases, either there was an interim order in a criminal revision by the Sessions Judge or by the High Court. In Bikaner, 15 prosecutions were pending at the stage of arguments, or charges, or pre-charge and there was stay on further proceedings by the High Court. In other Districts, the files summoned by the High Court have not been returned back. Expressing its deep pain and anguish, the Court directed that counsels will take out inspections of the files; the Member-Secretary, Rajasthan State Legal Services Authority will organize special workshops for the special courts entrusted with the trial of offences under the PC&PNDT Act; the Registrar General to list all the criminal cases, including applications under section 482 Cr.P.C., criminal revisions, criminal appeals in pending matters of PC&PNDT Act expeditiously before appropriate Benches

within a period of two months; District and Sessions to expedite the revisions where trials were pending and proceedings of trial had been stayed and to decide the same within three months' Special Magistrates to expedite the trials and to conclude them within six months and not to await orders where there were no interim orders passed in the criminal revisions or applications under section 482 Cr.P.C.

23 February 2015: The High Court found from the report submitted by O.S.D. (F&I) for the Registrar General, Rajasthan High Court, Jodhpur that as against the pendency of 368 cases in 7 Special Courts, only 2 cases were disposed of in the month of January, 2015. The maximum number of cases (138) are pending with the Special ACJM, PC&PNDT Act Cases, Jaipur Metropolitan where only one case was decided in January, 2015. Shri S. K. Gupta, petitioner was required to submit his suggestions for positive and purposeful implementation of the PC&PNDT Act.

In its submission, the State Government of Rajasthan tried to highlight its various initiatives taken in the subject matter. However, the High Court observed that *“The female foeticide is a horrible crime committed against humanity, for which every person in the State has to take responsibility. The crime is committed on account of deeply rooted prejudice against the girl child in the Society. In the State of Rajasthan, the magnitude of crime requires more serious steps to be taken than what has been done so far. We are satisfied with the concern shown by the State Government and the efforts made by it for better implementation of the PC&PNDT Act by developing software and launching various schemes for encouraging the development of girl child and discouraging female foeticide. These steps however, are not adequate, as hardly any conviction has been secured. The deterrent effect, by punishing those, who are guilty of the crime of female foeticide, has not been felt sufficiently.”*

Further, the High Court observed *“The crime of female foeticide is conceived in secrecy and is executed with deceit, with the help of doctors running ultra sonography centres. The PC&PNDT Act does not appear to have deterred the medical profession sufficiently, to avoid ultrasound sonography test to determine sex of the foetus. The State Government and the Courts have constitutional and statutory responsibility to reduce the opportunities of committing crime and to apprehend the perpetrators of the crime. The directions issued in this regard in the public interest litigation initiated by Shri S.K.Gupta, a public spirited Advocate, in last three years, have not resulted into*

any desired impact on the reduction of female foeticide in the State. On a conservative estimate, more than 5000 sex determination tests are being carried out in the State every day in the 2331 registered sonography centres and a large number operating without obtaining registration. Out of these, only 192 centres are in the Government sectors and the remaining 2139 in the private sectors. The medical fraternity cannot deny its role in the crime committed against the humanity. Without the sex determination tests, the illegal abortion of female foetus is not possible, as no one in the Society will take a risk of aborting male foetus.”

On 15 April 2015, the High Court considering the slow pace of implementation of PC&PNDT Act issued the following directions:

“(1) The Law Enforcement Agencies are directed to increase their vigilance over the unregistered PC&PNDT clinics. Whenever any unregistered PC&PNDT clinic is found, the ultrasound sonography machine should be immediately seized and the seizure be reported to the State Appropriate Authority and the Magistrate to initiate proceedings for its confiscation. The ultrasound sonography machine shall not be released by the Courts until the conclusion of the proceedings under the PC&PNDT Act.

(2) All the registered Medical Practitioners, authorized by amendment in Rule 3(3) of the PC&PNDT Rules of 1996 made in the year 2012, to carry out the sonography test, shall sign the sonography reports. The digital signatures will not be allowed. Each and every report will be accompanied with the photo copy or printed copy of the registration certificate of the PC&PNDT clinic.

(3) Every sale of the ultrasound sonography machine whether static or portable under section 3(B) of the PC&PNDT Act will be reported by the manufacturers to the State Appropriate Authority. The manufacturing companies and dealers will obtain sufficient proof of the registration or application for registration before sale of the machine. The reporting will also include the sale of the second hand ultrasound sonography machine with the proof of sale to be registered as PC&PNDT clinic. Every sale of machine in violation of these directions will be treated as unauthorized sale, on which the machine will be liable to be seized.

(4) A GPS will be required to be attached to check the location of the ultrasound sonography machine. Every manufacturer will install a GPS system at the time of sale of machine for tracing the location of the ultrasound sonography machine. The State Appropriate Authority will develop the technical knowhow of attaching a GPS on every machine within a period of three months. After three months, the sale of ultrasound sonography machine without attaching GPS system will not be permitted.

(5) The active trackers installed on sonography machines are of no use until the control rooms are established. The State Government will ensure that sufficient number of control rooms are established and a nodal officer is appointed for continuous monitoring of control room servers.

(6) Until the Rules are amended, providing for a procedure for an appeal against the order under the PC&PNDT Act, it is provided that the appeal may be filed within a period of 30 days beyond which the appellant will have to give sufficient reasons for filing the appeal to the satisfaction of the Appellate Authority, and that a copy of the order will be annexed with the grounds of memorandum of appeal. The appeal must be decided expeditiously and as far as possible within a period of six months.

(7) The order under Rule 11(2) of the PC&PNDT Rules of 1996 for release of machines on payment of penalty equal to five times of the registration fee on reporting any violation of PC&PNDT Act or Rules will not be passed until the Appropriate Authority is fully satisfied with the undertaking of compliance of the PC&PNDT Act and Rules. It will be within the authority of the Appropriate Authority to take any security including bank guarantee for releasing the ultrasound sonography machine and where the offence has been reported to the Magistrate, the State Appropriate Authority will not have any power to release the machine. These powers will be exercised by the Magistrate, where the criminal case is pending consideration, subject to the same conditions as are prescribed in Rule 11(2) of the PC&PNDT Rules of 1996.

(8) The State Government is directed to establish Special PC&PNDT Courts in the Districts of Sri Ganganagar, Hanumangarh, Churu, Jhunjhunu, Sikar and Alwar, where the situation of female foeticide has

worsened, as evidenced by the fall in the girl child sex ratio in these Districts. The State Government will establish the Special PC&PNDT Courts in these Districts in addition to the seven PC&PNDT Courts in the State of Rajasthan, within a period of three months.

(9) The Courts where the cases under the PC&PNDT Act are pending or the Courts in which the revisions are pending, are directed to expedite the proceedings and conclude the trial within a period of six months. These directions are in addition to the directions issued earlier by this Court to conclude the trials. Any pendency of trial under the PC&PNDT Act beyond six months, will be taken adversely by the High Court on its administrative side.

(10) The Society at large has to be vigilant about the pernicious practice of female feticide, which is conceived in secrecy and executed in deceit in connivance with the medical practitioners. The members of the Society are given freedom to report these crimes to the State Appropriate Authority and the District Appropriate Authority. The complaints addressed to the District Magistrate or any other Appropriate Authority will be immediately reported to the State Appropriate Authority for taking steps. Wherever the complaints are found to be genuine, on making inspections, the complainant will be rewarded and for which the State Government will issue appropriate scheme within three months. The decoy operations will be encouraged and for which the State Government will issue guidelines for both carrying out the decoy operations and for rewarding the participants in the successful decoy operations.

(11) All the Judicial Magistrates/Metropolitan Magistrates will be issued directions by the Registrar General of the Rajasthan High Court that wherever the Special PC&PNDT Courts are not established, they can take cognizance, conduct enquiry & trial for all offences of violation of PC&PNDT Act and the Rules.

(12) The State Government is requested to continue its efforts to encourage and expand the scope of the schemes for welfare of girl child. The State Government has taken sufficient measures for public awakening, such as 'Badhai Sandesh' on the birth of girl child, involvement of various NGOs and Government Organizations in 'Beti Bachao Beti Padhao' and

in developing the 'Asha Software' for timely and seamless online payment under the various schemes to the beneficiary. The fall in the ratio of girl child in the State of Rajasthan, however, requires the State Government to increase and expand the scope of the existing schemes and to initiate more schemes, for public awareness for protection of girl child.

(13) The State Government will also consider to make education of the girl child in the State completely free; to increase the percentage of reservation for women in public employment from 30% to 50%; and to provide measures to limit the expenditure in weddings at all levels.

(14) The State Government, NGOs, Charitable Societies and the Schools both Government and Private must be encouraged and given special grants to organize programmes for development of the girl child and awareness against female foeticide and female infanticide.”

The matter was kept pending for compliance and progress report on the directions issued and for further monitoring of the matter.

4.3 Key judgments on convictions

Convictions under the PC&PNDT Act are rare. As per Quarterly Progress Reports submitted by States/ UTs, a total of 2,152 court cases had been filed by various State Appropriate Authorities and 306 convictions were secured under the PC&PNDT Act as on 15 March 2016.⁸² This implies that an average of 98 cases were filed per year under the PC&PNDT Act while 14 convictions were secured per year.

Case 1. Conviction of Dr. Anil Sabhani, Haryana⁸³

Facts:

This case was filed against the accused Dr Anil Sabhani and his assistant Kartar Singh by the Appropriate Authority set up under the PNDT Act following a sting operation conducted at Dr Sabhani's clinic in 2001. The team had sent three decoy patients to Dr. Sabhani's clinic, namely M/s Dr. Adil Ultrasound

82. Written reply in Rajya Sabha by J. P. Nadda, Minister of Health and Family Welfare, Government of India on 15.03.2016 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137946>

83. Case No. 295/2 of 2001, State through District Appropriate Authority-cum-Civil Surgeon, Faridabad v. Dr. Anil Sabhani, Prop. M/s Dr. Anil's Ultrasound Opp. G.H. Palwal, Faridabad & others

Centre in Palwal, Faridabad, Haryana and made audio and video recordings of the doctor's interaction with them, in which he revealed the sex of the foetus. Cases were filed under Section 4(1), 4(2) and 4(3) of the PNDT Act and also failing to maintain proper records of the ultrasound centre and contravening the provisions of section 29 read with rule 9 and Form 'J' under the PNDT Rules with all the offences punishable under section 23 of the Act. On 25 March 2006, both the accused were found guilty and convicted for the above offences.

On 28 March 2010, the quantum of sentence of the convicts was heard.

Contention of the accused

The convict Dr. Anil Sabhani had stated that he was the sole bread earner of the family with an old mother and small children to look after. He was doctor by profession and not a previous convict and a lenient view be taken against him. While the other convict Kartar Singh had stated that he was not a previous convict and had old parents and small children to look after. He was the sole bread earner of the family and a lenient view be taken against him. The counsel for the convicts also argued that the convicts were not previous offenders and they did not indulge in any criminal act and as such leniency be shown to them.

Decision of the Court

On 28 March 2006, the Court of Sub Divisional Judicial Magistrate in Palwal, Haryana convicted Dr. Anil Sabhani and Kartar Singh, lab technician for violation of Section 4(1), 4(2) and 4(3) of the PNDT Act and failing to maintain proper records of the ultrasound centre and contravening the provisions of Section 29 read with Rule 9 and Form 'J' under the PNDT Act Rules. All the offences are punishable under Section 23 of the Act. The Court ordered the two convicts to undergo simple imprisonment for a period of two years and to pay a fine of Rs. 5,000/- each for the offence mentioned in Section 6(a), 6(b), Section 5(1), 5(2), Section 4(1), 4(2), 4(3) and Section 29 read with Rule 9 of the PNDT Act.

The Court held that the convicts did not deserve any leniency as the illegal acts done by persons like them was the reasons for the declining sex ratio in the

country and in Haryana and because of the persons like the convicts the day was not far when there would be no girl child around. The Court also noted that the convicts had worked out their own sex determination code to convey the sex of foetus to the patients. The Court observed⁸⁴

“The convicts together have been indulging in a very serious crime. To kill a person who may have the opportunity to defend himself is a very serious offence, but even more serious is the offence where a person kills someone who is not even in a stage to defend himself. The determination of sex by persons like the convicts lead to the above reality where on determining sex of the foetus as female the same is killed in a cruel manner. The act of the convicts is to be condemned and in my considered view the punishment to be awarded to the convict should act as a deterrent to and other persons, so that no one indulged in such heinous crime.”

Before parting with the judgment, the Court also expressed concern with the rising skewed sex ratio in the State of Haryana. The Court observed:

“It is further to be even that Haryana’s infamously skewed sex ratio is not just about numbers though they are quite horrific-861 per 1000 males as per the 2001 census – it’s also about attitudes. Combined with ultrasound technology that motorable roads, electricity and extensive urbanisation have brought only closer home, this has translated into a dearth of brides. The statistics speak for themselves. 36.24% of men between 15 and 44 years of age (the so-called reproductive of marriageable age) were tabulated as being unmarried in the 1991 census. In some districts like Rohtak, the percentage was as high as 44. Since then, the number has only gone up. Though the state government has claimed success in its efforts to correct the skewed sex ratio through awareness drives and incentives for the girl child, activists who work in the area are skeptical.”

Significance of the case

This case was historic as it was the first case of conviction recorded by the Court under the Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994 in the country.

84. Ibid

Case 2. Conviction of Dr. Mrs. Chhaya Tated, Maharashtra⁸⁵

Facts

This complaint against the two accused was filed in November 2004 by a Bombay Municipal Corporation officer after a health officer visited and inspected the maternity home in Dadar, based on a magazine advertisement placed by Dr Chhaya Tated. In the ad, that went under the heading ‘Want a (baby) boy?’, Dr. Chhaya Tated described herself as a ‘foreign-returned doctor offering specialized treatment’ at Shree Nursing Home and also in Aurangabad. The nursing home was not registered as required under the PC&PNDT Act and it had no detailed record of the ‘genetic counselling’ provided. It also did not display a board to warn against tests to detect sex of a child.

On 14 August 2009, the Metropolitan Magistrate 41st Court, Shindewadi, Dadar, Mumbai in C.C. No. 10169/MS/2004 convicted both the accused for the offence punishable under Section 22 (3) for contravening the provisions of Section 22 (1) (2) and for the offence punishable under Section 23 for contravening the provisions of Rules 6 (2), 4 (1) (2), 9 (1) of Prenatal Diagnostic Techniques Act, 1994 amended as The Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 and sentencing her to suffer Rigorous Imprisonment for three (3) years on each count and to pay fine of Rs. 10,000 in default, to undergo Rigorous Imprisonment for three (3) months on each count.

The Metropolitan Magistrate Court observed that ‘with no qualifications to run a genetic counselling centre, both accused were doing so at Dr Adkar’s nursing home and that amounted to ‘false impersonation to the innocent public’.

Aggrieved with the order, the appellants had filed this appeal challenging the judgment and order passed by the Metropolitan Magistrate 41st Court, Shindewadi, Dadar, Mumbai.

Contentions of the petitioners

It was submitted that the judgment was arbitrary and against the law and equity. It was highlighted that the Trial Court had failed to consider that there

85. See Criminal Appeal No. 530 of 2009 in the Bombay Sessions Court, 29 September 2011 [Dr. Mrs. Chhaya Tated v. The State (at the instance of Shivaji Park P.S. Dadar (West), Mumbai)]

was miscommunication between the appellant/ accused no. 1 and the persons concerned for publication on the basis of telephonic message. The Trial Court had failed to appreciate that the said Act was to prohibit techniques for determination of sex of the foetus leading to female foeticide and has not considered that there was no such technique for the said determination. It was further contended that the appellant/ accused no. 1 sought to publish the advertisement to facilitate the fertility of women desiring to have a child and was in no way connected with the determination of sex. Nothing incriminating was found from the panchanama conducted on the spot and no equipment of sex determination were found there. There was total absence of mensrea. It was requested that the appeal be allowed and the impugned judgment and order be quashed and set aside.

Decision of the Court

The following issues were before the Court for determination namely,

- i. Whether the prosecution has proved that the appellant/ accused no. 1 published an advertisement in a weekly magazine 'Lokprabha' of November and December, 2004 about Selection of Sex of foetus, preconception and has contravened Section 22 of the PNDT Act of 1994 (amended in 2003) and has thereby committed an offence punishable under section 23 of the PNDT Act 2003?
- 2a). Whether the appellant/ accused no. 1 had registered the Nursing Home or Clinic in 'Form A' and by not doing so, she had contravened the provisions of PNDT Act as per Rules made thereunder vide Rule 4 (1) and 4 (2) of the PNDT Act 2003?
- 2b). Whether the appellant/ accused no. 1 failed to display the duplicate certificate of registration in 'Form B' to conduct Prenatal Diagnostic Test Procedures and thereby she had contravened the provisions of Rule 6 (2) of the PNDT Act?
- 2c). Whether the prosecution has proved that the appellant/ accused no. 1 failed to maintain a register showing particulars on the basis of which such patients reported for counseling and has thereby contravened the provisions of Rule 9(1) and has thereby committed an offence punishable under Section 23 of the PNDT Act, 1994?

The answers of the Court to all the above issues were in the affirmative.

In conclusion, the Court upheld that the judgment and order of the trial Court and dismissed the appeal. The Court held:

“Upon perusing the impugned Judgment and Order, I find that the point regarding the sanction has been properly considered by the Learned Trial Court. I have given a finding that the “Competent Authority” initiated action before the Ld. Trial Court, pursuant to the Government Notification in the Gazette dated 27.12.2001 and 23.12.2004, I have come to a conclusion that the offence punishable under Section 23 of the said Act has been proved by the prosecution.

However, the Learned Trial Court has rightly considered the date of publication of the notification of the Government Gazette at Exhibit P8 and the action taken by the competent authority prior to the notification dated 23.12.2004 will have to be considered in view of the fact as to whether P.W.1 had the authority to carry out the inspection at the premises on 27.11.2004. Therefore I find that the reasoning given by the Learned Trial Court in respect of Section 23 of the said Act and contravention of Rule 6, 4 and 9 of the Act will be sustainable. The impugned Judgment is found to be properly reasoned and hence, will not require any interference. However, maximum sentence of S.I. of 3 years on each count would be appropriate as the offence of providing services for preconception selection of sex in the present modern/advanced times, by contravening the provisions of this special act which is applicable to this whole Nation is to be condemned and should also send a message to the Society at large, as the delay in the system also defeats justice. Deterrence for such offences of giving priority to select a male child at the preconception stage having incidental social repercussions, is the need of the hour.”

Vide judgment and order dated 29 September 2011, the Court convicted the Appellant/ (Accused no. 1) namely Dr. Mrs. Chhaya Tated for the offence punishable under the under Section 22 (3) for contravening the provisions of Section 22 (1) (2) and for the offence punishable under Section 23 for contravening the provisions of Rule 4(1) (ii) 6 (2), 9(1)] of the said Act. The appellant was sentenced to i) suffer Rigorous Imprisonment for three (3) years for the offence punishable under Section 22(3) for contravention of Section 22 of the said Act and further ordered to pay fine of Rs. 10,000 in default of which, she shall suffer Rigorous Imprisonment for three (3) months; ii) sentenced to suffer Rigorous Imprisonment for three (3) years for the offence punishable

under Section 23 of the said Act and ordered to pay fine of Rs. 10,000 in default of which, she shall suffer Rigorous Imprisonment for three months; iii) sentenced to suffer Rigorous Imprisonment for three (3) years for the offence punishable under Section 23 for contravening the provisions of Rule 9 (1) of the said Rules and ordered to pay fine of Rs. 10,000 in default of which, she shall suffer Rigorous Imprisonment for three months.

Case 3. Conviction of Dr. Pradeep Ohri, Punjab⁸⁶

Facts

On 9 July 2002, the District Medical Authorities carried out an inspection of Satyam Diagnostic Centre inside Ohri Nursing Home of Amritsar, Punjab. During the inspection, it was found that the Dr. Pradeep Ohri had violated Section 5(a)(b)(c) of the PC&PNDT Act, 1994 and Rules 9(1)(4) and 10 of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. On a complaint under the aforesaid provisions, Dr. Pradeep Ohri was prosecuted and convicted under Section 23(1) for the offence committed under Section 5(a)(b)(c) of the PC&PNDT Act, 1994 and Rules 9(1)(4) and 10 made there under. However, the Chief Judicial Magistrate, Amritsar released Dr. Ohri on probation for a period of one year under Section 4(1) of the Probation of Offenders Act, 1958 vide judgment dated 24 September 2004.

On 7 November 2005, the Punjab Medical Council passed an order removing Dr. Ohri's name from the State Medical Register for a period of five years under Section 23(2) of the PC&PNDT Act, 1994 in view of his conviction under Section 23(1) of the said Act. Dr Ohri challenged the order of the Punjab Medical Council before the Punjab and Haryana High Court.

Contentions of the petitioner

It was contented that the name of the petitioner was removed from the State Medical Register for a period of five years for an offence committed on 9 July 2002. Whereas as per Section 23 of the old PNDT Act, 1994, his name should have been removed only for a period two years. It was submitted that only after the amendment of the PNDT Act with effect from 14 February 2003, the

86. Dr. Pradeep Ohri v. State Of Punjab And Anr [AIR 2008 P H 108]

period of two years for the first offence had been enhanced to five years. It was argued that the order of removal of his name for five years in respect of the Act committed prior to the new amended Act came into effect was squarely hit by the prohibition as imposed by Article 20(1) of the Constitution against giving retrospective effect to any penal law.

It was also argued that the Petitioner was not sentenced to any punishment but was released on probation, no disqualification was attached to his conviction. Hence, the Medical Council had acted illegally and without jurisdiction while ordering the removal of his name in violation of Section 12 of the Probation of Offenders Act.

Decision of the Court

On 20 December 2007, the High Court with respect to the removal of the petitioner's name from the State Medical Register for a period of five years accepted and upheld the said contention and reduced the period to two years from five years. However, the High Court rejected the contention of the Petitioner that since he was not sentenced to any punishment but was released on probation, no disqualification was attached to his conviction and therefore the Medical Council had acted illegally and without jurisdiction while ordering the removal of his name.

Case 4. Conviction of Dr. Prashant Navnitlal Gujrathi, Maharashtra⁸⁷

Dr. Prashant Navnitlal Gujrathi, a resident of Parola, Maharashtra, was charged for violation of Rule 9 (4) under the Pre Conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Rules 1996 punishable under Section 23 and 25 of the PC&PNDT Act, 2003. On 11 December 2005, complainant Dr. Sambhaji Patil along with Dr. Mrs. Kavita Sontakke, Medical Officer, Civil Hospital, Jalgaon had inspected the sonography centre of the accused. They demanded the requisite record to be maintained under the PC&PNDT Act, 2003 from the accused. Accordingly, accused had handed over one register and registration certificate to the complainant. It was revealed during the inspection that the 'Form F' register, consent forms of pregnant women willing to undergo

87. Regular Criminal Case No. 5/2006 decided on 27.07.2010 in The Appropriate Authority, Dr. Sambhaji Patil v. Dr. Prashant Navnitlal Gujrathi in the Court of Judicial Magistrate (F.C.), Parola, available at: http://countryoffice.unfpa.org/india/drive/Compilation_and_Analysis_of_Case_Laws_on_Pre_Conception.pdf

sonography and copy of the PC&PNDT Act, 2003 was not found at the sonography centre. Accordingly, the complainant had inferred that the accused had contravened the provisions under PC&PNDT Rules 1996. Subsequently, the complainant had seized and sealed the ultra sonography machine and a printer.

On 3 January 2006, a complaint for contravention of Rule 9 (4) constituting for an offence punishable under Section 23 and 25 of the PC&PNDT Act, 2003 was filed in the Court of First Class Judicial Magistrate, Parola. On 27 July 2010, the trial court found the accused Dr. Mr. Prashant Navnitlal Gujrathi guilty and convicted him for the offence under Section 23 and 25 of the PC&PNDT Act, 2003 for the contravention of Rule 9 (4) framed under the PC&PNDT Rules, 1996 and in view of Section 23 (1) of the PC&PNDT, Act 2003 read with Section 248 (2) of the Code of Criminal Procedure, 1973 he was sentenced to suffer rigorous imprisonment of one year and to pay a fine of Rs. 5,000/- in default to pay such fine to suffer further simple imprisonment of two months, in view of Section 30 (1) of the Code of Criminal Procedure, 1973.

This judgment was one of the important ruling on conviction for non maintenance of record and for failure to submit the record which was to be the maintained as per Form-F, of his sonographic clinic before Appropriate Authority at the time of inspection. The trial court considered in detail the relevant provisions such as Section 4 (3) Section 29 (2) Rule 10 (1A), Rule 11 in their proper perspective, casting the bounden legal duty on the accused to produce and show the record to inspecting Authorities. While awarding the sentence, the Court dealt with the object of the Act and as to how non maintenance of form-F amounts to contravention of provisions of Section 5 and 6 within the meaning of Section 4 (3) of the Act, making the offence more serious and grave. The court had considered the need for imposing deterrent punishment in view of declining sex ratio particularly in the said Taluka and status of the accused as Doctor by profession, casting further responsibility upon him to obey the law. In this case for the first time the Proviso to Section 4(3) of the Act and its effect was discussed and failure of the accused in discharging the burden shifted upon him by this Proviso was one of the factors resulting in his conviction.

Case 5. Conviction of Dr. Prabakhar Krishnarao Pawar, Maharashtra⁸⁸

On 8 September 2010, a trial court in Karad, Satara, Maharashtra convicted Dr. Prabakhar Krishna Pawar and sentenced him to three years rigorous imprisonment and fine of Rs.10,000/- on each of the nine counts in which he was convicted and further confiscated the sonography machine.

This case was a result of a sting operation conducted on the basis of reliable information that the accused was conducting activities relating to the pre-natal diagnosis techniques in his clinic, which was not registered under the Act and was disclosing the sex of the foetus to pregnant women. The complainant i.e. the Appropriate Authority with the support of Advocate Varsha Despande sent a six months pregnant lady to the clinic of the accused as a decoy client with marked currency notes of Rs. 2,500/- for conducting diagnostic test. The accused conducted the test with the sonography machine and informed her that foetus in her womb was of a male child and accordingly issued sonography report to her accepting the amount of Rs.2,500/-. On receipt of this information, the Appropriate Authority went to the spot, verified the information, recorded statements of the decoy, etc., seized the marked currency notes and sonography report along with other articles. After due investigation, case was filed in the Court against the accused for the offence punishable under Section 23 of the Act for contravention of various provisions and rules.

On the basis of evidence of various witnesses, the trial Court found that the Clinic of the accused was not registered under the Act. He had also not obtained requisite training or experience of running such Clinic and yet he was conducting activities relating to pre-natal diagnostic techniques of sex detection and communicating the same to the pregnant ladies. It was also proved that accused had not maintained record, nor obtained consent from the decoy pregnant woman and further he had also not displayed a board in his premises that disclosure of sex of foetus is prohibited under the Act. Accordingly, the trial Court held the accused liable for conviction under Section 23 of the Act for the breach of various provisions of Sections 3, 5 and 29 read with Rules 3, 10, 17 and 18 of the Act.

88. Regular Criminal Case No. 266 of 2005 Government of Maharashtra Through Dr. V. R. Yadav, District Appropriate Authority And Civil Surgeon, Satara v. Dr. Prabhakar Krishnarao Pawar, Jivan Jyoti Hospital, Gondi/ Khulewadi, Tal. Karad, Dist. Satara, available at: http://countryoffice.unfpa.org/india/drive/Compilation_and_Analysis_of_Case_Laws_on_Pre_Conception.pdf

The trial Court rejected the plea of the accused for leniency considering that though accused belonged to the noble profession of medicine, he was indulging into abhorrent practice of sex selection only to satisfy his greed for money. This was the first case in which the accused was held guilty for as many as nine offences and he was punished with full sentence, i.e., to undergo three years imprisonment and fine of Rs.10,000/- on each count. The case is also important as for the first time the Court had rightly invoked and applied all the provisions under the Act in proper spirit keeping in mind the object and reasons of the Act, explaining them in the Judgment in the language which public at large can understand. The judgment was in Marathi language.

4.4 Key judgments on cancellation of registration

Cancellation or suspension of registration of the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic is one of the main tasks of the Appropriate Authority under Section 20 of the PC&PNDT Act. The Courts have dealt with a number of cases.

Case 1: Suresh Manjibhai Prajapati v. the State of Gujarat & 1, August 2006⁸⁹

On 9 April 2006, the registration of Genetic Clinic of Suresh Manjibhai Prajapati was suspended by the Appropriate Authority under the PC&PNDT Act. The Appellate Authority also rejected the appeal of Suresh Manjibhai Prajapati vide its order on 5 July 2006. This petition was filed by the petitioner, Suresh Manjibhai Prajapati before the High Court of Gujarat seeking an order to quash and set aside the order passed by the respondent authorities on 9 April 2006 by which the registration of Genetic Clinic of the petitioner was suspended.

The case of the petitioner was that on 9 April 2006, the petitioner was served with a show cause notice after the place of the petitioner was visited and inspected in presence of two independent witnesses, namely (i) Ishwarji Laxmanji Chavda, aged 48 years, Deputy Mamlatdar, Chitnis Branch and (ii) Shri Gopibhai Dhanabhai Gamar, aged 41 years, Deputy Mamlatdar, Chitnis

89. Suresh Manjibhai Prajapati v. the State of Gujarat & 1 SCA/17994/2006 2/12, High Court of Gujarat, decided on 30 August 2006

Branch, Collector Office, Banaskantha, Palanpur along with 18 persons of the Health Department of the District Panchayat, Banaskantha. In the notice, various irregularities and breaches of the provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 were mentioned. It was also recorded in the notice that Registration holder Dr. Suresh M. Prajapati was not present in the hospital and, therefore, in the presence of his representative, case writer Shri Laxmanbhai Karsanbhai Patel and in presence of Shri Jignesh M. Raval, working as a Pharmacist in 'Simant Medical Store', situated in the campus of the hospital, record register and the hospital was inspected/examined. Looking to the irregularities and the breaches, including that of change of address, without permission of the authority, 'change of machine', as in the application for registration under PC&PNDT Act dated 7.11.2002, "Wipro GE Logic Alpha 100-M.P." Sonography Machine was mentioned, whereas "LT Medical Altra Sonography" machine was found in the consulting room of the petitioner. This change of machine was not intimated to the appropriate authority.

It was further stated in the notice that under Rule 13 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996, within three days, appropriate authority is required to be intimated such change. The notice also called upon the petitioner to intimate the authorities as to where the earlier machine is lying. It was mentioned in the notice that provisions of Rule 17(1), 17(2), 1(1), 9(4), 5(1), 9(8), 13 are noticed to have been breached. The petitioner was granted three days' time to file his explanation.

The Counsel for the petitioner contended that on the same day, i.e. 9 April 2006, the appropriate authority under the PC&PNDT Act passed the order and suspended the registration of the petitioner resorting to the provisions of sub-section (3) of Section 20 of the Act. As a result, the notice and the order both were vitiated on account of violation of principle of natural justice.

The Counsel of the petitioner had also drawn the attention of the High Court to the provisions of Section 20 of the Act, which provides the procedures for cancellation or suspension of registration. The Counsel submitted that Sub-section (3) of Section 20 is in the nature of a proviso to sub-Section (1) and (2). However, the High Court did not buy the argument and clarified that sub-section (3) is not a proviso to sub-sections (1) & (2) of Section 20, but it had

an overriding effect with a “non obstante clause”. It gives wide powers along with discretion to the Appropriate Authority. The moment the Appropriate Authority is of the opinion that it is necessary or expedient in the public interest, after recording reasons in writing, it can suspend the registration without issuing any notice.

With respect to violation of principle of natural justice, the High Court concluded that there is no substance in this contention. The Court observed as under:

“10. In the present case, the notice was issued on 9.4.2006. The order suspending the registration was passed on 9.4.2006. The petitioner herein has filed his reply to the show cause notice on 12.4.2006 and on the same day, he made a request to the authorities by an application, which is at Annexure-’D’ to remove the seal applied to the hospital and to apply the seal to the Sonography machine after allowing the petitioner to place the Sonography machine in a room in a safe condition, so that it is not damaged. It is informed by the petitioner that the authorities have exceeded to that request. The seal applied to the hospital is removed and the machine is now kept in a separate room and continued to be in sealed condition.

11. The petitioner has already preferred appeals, being Appeal Nos. 46 of 2006 and 47 of 2006. Those appeals are also heard and the Appellate Authority has not found any reason to change the order passed by the appropriate authority at the District level.

12. It is at this stage that the petitioner is before this Court.”

The Counsel for the petitioner also relied upon certain orders passed by the Gujarat High Court namely in Special Civil Application No. 13357 of 2006, Special Civil Application No. 13359 of 2006, Special Civil Application No. 13360 of 2006 and Special Civil Application No. 13433 of 2006. However, the High Court was not convinced with the arguments of the Counsel for the petitioner.

On 13 August 2006, the High Court after consideration of all the relevant facts of the case concluded that there was no substance in the petition and

dismissed it.

Case 2. Amita R Patel v. State of Gujarat, September 2008⁹⁰

On 19 September 2008, the Gujarat High Court in *Amita R. Patel & 1 v. State of Gujarat & 1* upheld the prosecution of the doctor accused of violation of the Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

In 2006, Dr. R. R. Vaidya, Chief District Health Officer, for and on behalf of the Appropriate Authority under PC&PNDT Act filed a case being *Criminal Case No.3251 of 2006* against the accused doctor who was running a maternity and nursery home at Chandlodiya, Ahmedabad in the Court of 6th JMFC, Ahmedabad (Rural) alleging that the accused has failed to observe and comply with the provisions of the Act. The Appropriate Authority sealed the Ultrasonography (USG) machine for violation of the provisions of the Act. A show cause notice was issued to the accused as to why the registration of the accused should not be suspended/cancelled. Thereafter, the accused preferred an appeal No.42 of 2006 before the State Appropriate Authority, Gandhinagar. By order dated 16.03.2006, the registration of the accused under the PC&PNDT Act was suspended.

Similarly, another complaint being Criminal Case No.845 of 2006 was filed by one Dr. P. L. Dave, on behalf of the Appropriate Authority under the PC&PNDT Act and on behalf of Chief District Health Officer, Ahmedabad in the Court of Metropolitan Magistrate Court, Ahmedabad against the accused for failing to observe / comply with the provisions of Sections 4(3), 5(1) and Rules 9(4) & 10(1)(A) of the Act. The records, search and seizure procedure was conducted and the Sonography machine of the accused was sealed. It was found that Form 'F' bearing Sr. No. 1 to 25 ranging from 02.12.2005 to 28.02.2006 were not filed up properly and same were seized during the search and seizure procedure. It was found that there was no sign of Doctor in Form 'F' in form numbers 3,4,5,6, 7, 11, 12. It was further found that patient's name was not written in the declaration by the patient section of form F. No indication for sonography is written in para No.11 of Form F in

90. *Amita R. Patel & 1 v. State of Gujarat & 1*[CR.MA/10158/2007], Gujarat High Court decided on 19 September 2008

from Number 9, 10 and 13. In all “F” form number 14 to 25 the indication for Sonography is shown in para 10 of Form ‘F’ as “previous child with congenital anomaly” along with “to rule out congenital anomaly and for foetal well being”. It was further averred in the said complaint that Section 4(3) of the PC&PNDT Act specifics duty on the registration holder or the Doctor conducting Sonography at the hospital under the Act to record in writing the reason for conducting the procedure and keep these records up to date in the clinic as per Rule 9(4).

The High Court explaining the reasons for the enactment of the PC&PNDT Act observed *“At the outset it is required to be noted that denial to girl of her right to life is one of the heinous violation of the right committed by the society; Gender bias and deep-rooted prejudice and discrimination against the girl child and preference of male child have led to large scale female foeticide in the last decade. Decline of sex ratio of girls and women in India is a major concern for all.”*

On consideration of the case in hand, the High Court stated that prima-facie it discloses cognizable offence and the accused should face trial. The High Court observed *“In the complaint it is provided to punish the accused so as to restrict the contravention of the provisions of the PNDT Act/ Rules and ensure the compliance thereof to meet the noble cause as envisaged by the PNDT Act. It was sought to be argued on behalf of the petitioners that alleged breaches are technical one. It is true that it might be that alleged breaches may be seen to be technical one but provisions of the Act and Rules which are mandatory are required to be complied with strictly so as to achieve ultimate goal of the Act. As stated hereinabove, certain duties are cast upon the persons conducting ultrasonography / image scanning on a pregnant woman so as to check female foeticide.*

Dismissing both the applications, the High Court ruled *“In the facts and circumstances of the case and allegations in the complaint narrated herein above and looking to the object of the Act, no case is made out to exercise extra ordinary jurisdiction under Section 482 of the Criminal Procedure Code to quash the impugned complaints at this stage. Now so far as the decision of the learned Single Judge of this Court relied by the learned Advocate for the petitioners is concerned, it is reported that decision of the learned Single Judge of this Court is referred to Larger Bench and Larger Bench has already heard the matter. Even otherwise on facts, prima facie case is made out against the petitioners and therefore, this Court is of the opinion that considering the*

averments and allegations in the complaint, no case is made out to exercise powers under Section 482 of the Cr.P.C. and quash the complaint at this stage.”

The High Court made an important observation before parting with the judgment. The Court observed as under:

“Before parting with the present judgment, this Court is tempted to observe and this Court is of the opinion that moto of the Government and everybody is ‘SAVE GIRL’. However, it shall not be only ‘SAVE GIRL’ but it should be ‘WELCOME GIRL (BETI VADHAO)’ and if this goal is achieved and every man and women starts welcoming girl (Daughter) from the bottom of their heart, then and then only it can be said that the purpose and object for which PNDT Act has been enacted is achieved.”

Case 3: Dr. K.L. Sehgal v. Office of District Appropriate Authority & Union of India and Others, July 2010⁹¹

The two writ petitions WP(C) Nos. 6654 & 6826/2007 raised important questions of law concerning interpretation of Section 2(p) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 which defines “sonologist or imaging specialist”.

The writ petition, W.P. (C) 6654 of 2007 was filed by Dr. K.L. Sehgal, who runs the Dr. Sehgal’s Polyclinic & Diagnostics Imaging Clinic in New Delhi. In April 2002, Dr. Sehgal applied for grant of PNDT registration for setting up an ultrasound clinic under the name of ‘Dr. Sehgal’s Clinic’. He was granted a certificate on 1 May 2002 with registration No. 348. The certificate was valid for a period of five years up to 30 April 2007. By a letter dated 21 February 2007 from Respondent No. 1, i.e., the Office of District Appropriate Authority under the PNDT Act, Dr. Sehgal was asked to submit the necessary documents for renewal of the PNDT registration. In response to the said notice on 28 February 2007 Dr. Sehgal submitted an application for renewal enclosing the certificate of his six months training. He stated that he had been regularly performing sonography tests for the last five years. Dr. Sehgal stated that he did not receive any response till the expiry of 90 days thereafter.

91. Dr. K.L. Sehgal v. Office of District Appropriate Authority and Dr. Sonal Randhawa v. Union of India and Others. WP(C) Nos. 6654 & 6826/2007, Delhi High Court, decided on 5 July 2010

On 22 June 2007, Dr. Sehgal received a letter dated 25 May 2007 informing him that his application for renewal of registration had been rejected on the ground of “non-submission of documents from a qualified Radiologist.” Dr. Sehgal protested stating that in terms of Section 3(1) (b) of the PNDT Act, any person who was registered as a medical practitioner and had one year’s experience in sonography, was eligible to run an ultrasound clinic.

The response of the Authority under the PNDT Act was that the Institute, in which Dr. Sehgal claimed to have undergone training, was not recognised by the Government of India or any competent authority. That institute was recognised only by private institutions which could be termed as ‘NGOs’ and the experience gained was no experience because anybody could approach private institutes and get certificates without satisfying the basic criteria of being trained to use the ultrasound apparatus. A radiologist has to be one from an institute recognised by the Government of India. It was also submitted that since the PNDT Act and Rules framed thereunder do not specify the institutes and individuals from where the training/experience had to be undergone, the application was placed before an Advisory Committee comprising of technical experts.

The second writ petition being *W.P. (Civil) 6826/2007* was filed by Dr. Sonal Randhawa. On 5 April 2006 Dr. Randhawa applied for registration as a sonologist under the PNDT Act in the West District of the National Capital Territory of Delhi. Dr. Randhawa had already been recognized and registered as a Sonologist with the Rohini (North-West Zone) and Dwarka (South-West Zone) under the PNDT Act since the last seven years. On 10 July 2006 Dr. Randhawa submitted all necessary documents as directed by the Appropriate Authority in support of her application.

On 2 August 2006 the District Appropriate Authority under the PNDT Act (West District) sent a communication to the Director, Directorate of Family Welfare, GNCTD stating that Dr. Randhawa did not submit documents in support of her application to be registered as an ultrasonologist and therefore her application could not be considered. Dr. Randhawa preferred an appeal on 21 August 2006 with the Director, PNDT, Ministry of Health and Family Welfare. In response to this, a letter was written by the Ministry of Health and Family Welfare, PNDT Division on 15 September 2006 stating that the PNDT Act or

Rules did not categorically specify the institutions/individuals from where the training or experience had to be acquired. At the meeting of the State Level Multi-Member Appropriate Authority under the PNDT Act held on 6 December 2006 Dr. Randhawa's case was discussed and her request for registration was not acceded to. Dr. Randhawa applied to the Ministry of Health and Family Welfare on 19 December 2006. However, she did not hear any response to the said letter. The Directorate of Family Welfare sent a letter dated 5 July 2007 to the Petitioner stating that her request for registration as a sonologist could not be acceded by the State Advisory Committee under the PNDT Act and that "training in Ultrasound needs to be examined and recognized by the competent authority." Dr. Randhawa had assailed the refusal of registration on the ground that the reasons therefore were arbitrary and unreasonable. The observation that training in ultrasound needed to be examined and recognized by the competent authority, was a bad one. Even though the PNDT Act and Rules did not provide the procedure for undergoing training/experience or identify persons eligible to provide such registration, there was no justification in simply rejecting the request for registration.

After careful scrutiny of the entire material on record and hearing the authorities under PC&PNDT Act and Medical Council of India, the High Court held that none of these authorities were clear as to what should be the minimum criteria regarding training, where the training should be provided, and which are the institutes recognized for providing training. Even the Rules framed under the PC&PNDT Act did not provide that the training has to be in a recognized institute. It was also unclear where such recognized institutes existed. It was found that even the PC&PNDT Act and Rules did not provide any guidelines on this point. It was, therefore, held that unless such criteria are fixed and made known in advance, it would be unfair to reject the application.

Hence, on 5 July 2010 the High Court held that the rejection of both the Petitioners' applications for registration as sonologist was unsustainable in law and set aside. The High Court observed *"Nevertheless, it appears to this Court that the reasons for rejection of the Petitioners' applications were not based on rational grounds and on the basis of reasonable criteria made known to each of them in advance. The Petitioners appear to have satisfied the requirements of the PNDT Act and the extant PNDT Rules which do not specify that the training to be undergone has to be in a recognized institute. As already noticed, even the MCI is unclear where such*

“recognized” institutes that offer such training and qualification exist. Also, without such criterion being made known in advance, it would be unfair to reject an application for renewal on that basis as was done in the case of Dr. Sehgal and for registration as in the case of Dr. Randhawa. Further, in the case of Dr. Sonal Randhawa there is no convincing explanation forthcoming for the apparent inconsistency in dealing with her applications for registration in the different districts in Delhi. It is not disputed that she has been granted registration under the PNDT Act in two districts but has been refused in the third. Also, if in Dr. Rahul’s case, the Advisory Committee on 22nd July 2008 resumed the registering of new centres under the PNDT Act “as per practice prior to 9.1.08” there is no valid explanation for meting out a different treatment to these two petitioners.....A selective application of an undisclosed criterion is a sure recipe for the decision being rendered arbitrary.”

The High Court also made an important observation noting the need to plug the loopholes in the PNDT Act. It observed as under:

“These two petitions reflect a disconcerting state of affairs. As a result of the weak definition of the term ‘sonologist’ under the PNDT Act, the mushrooming growth of diagnostic clinics is unable to be effectively regulated. The absence of clear rules and guidelines spelling out unambiguously the qualification, training and experience required for operating a diagnostic clinic offering ultrasound tests has resulted in unethical practices being adopted in many such clinics in violation of the PNDT Act going unchecked. These cases underscore the need to amend the PNDT Act to plug the loopholes.....To avoid any confusion, the requirements in terms of qualification, training and experience to recognised and registered as a “sinologist” should be incorporated in the PNDT Act and further explicated under the PNDT Rules. In determining the criteria the best available international practices should be adapted to suit Indian conditions. Secondly, the names of the institutions state-wise which are recognized for that purpose will have to be notified. Thirdly, the changed criteria must be made not only prospective but sufficient time given to enable those seeking registration or renewal to fulfill the changed criteria. Fresh registrations can be postponed to enable the arrangements envisaged by the new criteria to be put in place. These steps will require a comprehensive survey to be undertaken by the Respondents followed by consultations with experts in the medical fraternity and education. The resultant amendment to the definition of “sinologist” under Section 2(p) of the PNDT Act and the corresponding amendment to the PNDT Rules must

be given wide publicity so that there is increased public awareness about the minimum standards one should expect in diagnostic clinics.”

Case 4: Dr. Sunil Fakay v. GNCTD, Directorate of Family Welfare and others, January 2011⁹²

On 10 January 2011, the Delhi High Court confirmed the cancellation of the registration of diagnostic centre, ‘Sunil Fakay Imaging’ run by Dr. Sunil Fakay of Delhi passed by District Appropriate Authority on 16 July 2010 under the Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. The High Court also confirmed the sealing order of the diagnostic centre passed by the Sub-Divisional Magistrate, Model Town on 16 July 2010.

The sealing of the diagnostic centre and cancellation of its registration was done following a complaint filed by one Shri S. K. Sharma, Secretary, Beti Bachao Samiti after it was revealed in a ‘sting’ operation that Dr. Sunil Fakay had conducted an ultrasound of the foetus of a pregnant woman (a decoy customer) and disclosed to her the sex of the foetus.

Dr. Sunil Fakay filed an appeal before the Appellate Authority against the cancellation of registration of his diagnostic centre. On 23 September 2010, the Appellate Authority passed an order setting aside the order dated 16 July 2010 of the District Appropriate Authority. The case was remanded to the District Appropriate Authority to follow the due procedure under the PC&PNDT Act and pass a fresh order within one month. However, Dr. Sunil Fakay did not receive any communication from the District Appropriate Authority for more than a month and filed the petition before the Delhi High Court against the sealing of his clinic and the cancellation of his registration under the PC&PNDT Act. The Advisory Committee under PC&PNDT Act in a meeting held on 20 October 2010 in the Office of Deputy Commissioner (North- West) Kanjhawla, Delhi recommended that the earlier order of cancellation of the registration under the PC&PNDT Act be substituted with an order of suspension of the Petitioner’s licence till the completion of investigation by the police.

However, the High Court rejected the recommendation of the Advisory

92. Dr. Sunil Fakay vs GNCTD, Directorate Of Family Welfare and others, W.P.(C) 7736/2010 & CM 22012/2010

Committee concluding *“In the circumstances, this Court finds, prima facie, that the recommendation of the Advisory Committee that the order cancelling the Petitioner’s registration passed by the Appropriate Authority on 16th July 2010 should be converted into one of suspension of his licence till the completion of investigation by the police is not unreasonable.”*

Case 5. Dr. (Mrs.) Suhasini Umesh Karanjkar v. Kolhapur Municipal Corporation, June 2011⁹³

On 22 January 2009, the Appropriate Authority at Kolhapur, Maharashtra along with a team of officers visited the Maternity and Surgical Hospital Kolhapur being run by one Dr. (Mrs.) Suhasini Umesh Karanjkar, a Gynecologist. The hospital was registered as a Genetic clinic/Ultrasound Clinic under the provisions of the Pre-conception and Pre-natal Diagnostic Techniques Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. Registration was granted by the competent authority on 3 September 2003 and was extended from time to time till 31 March 2013. The visit by the Appropriate Authority was undertaken following a complaint that the Dr. (Mrs.) Suhasini Umesh Karanjkar was using the ultra sound machine for conducting sonography on pregnant women for determination of sex of foetus. The Appropriate Authority seized the record of the hospital and the ultrasound machine and put seal on the record and the ultrasound machine after drawing a panchanama in presence of the Dr. (Mrs.) Suhasini Umesh Karanjkar’s husband, who was also a Gynecologist.

On 17 February 2009, the Appropriate Authority issued a notice to the petitioner to show cause as to why the registration of her genetic/ultrasound clinic should not be suspended. The petitioner sent a reply dated 5 March 2009. In an order dated 7 March 2009, the Appropriate Authority suspended the registration granted to Dr. (Mrs.) Suhasini Umesh Karanjkar under the provisions of the Act and the Rules. Aggrieved by the order, Dr. (Mrs.) Suhasini Umesh Karanjkar filed an appeal before the District Collector, Kolhapur under Section 27 of the Act on 31 August 2009.

Thereafter, Dr. (Mrs.) Suhasini Umesh Karanjkar filed a petition on 14 September 2010 before the Bombay High Court, challenging the action of the

93. Writ Petition (C) No. 7896 of 2010, Dr. (Mrs.) Suhasini Umesh Karanjkar vs Kolhapur Municipal Corporation

Appropriate Authority to seize and seal the ultrasound machine on the ground that the Appropriate Authority and the Authorized Officer did not have any power to seize and seal an ultrasound machine. This contention was based on the decision of the Bombay High Court in *Dadasaheb v. State of Maharashtra* delivered on 14 August 2009.

On 6 June 2011, the Bombay High Court overruled the decision in *Dadasaheb v. State of Maharashtra* noting that it did not lay down the correct law and dismissed the petition of Dr. (Mrs.) Suhasini Umesh Karanjkar. The High Court held “*we are of the view that on an analysis of the provisions of the Act, if any ultrasound machine is used for conducting sonography on a pregnant woman for a sex determination test or sex selection procedure in contravention of the provisions of the Act, the power to seize and seal any other material object, besides the record and documents, would include the power to seize and seal ultrasound machines and other machinery and equipment.*”

In this case, before parting with the matter, the High Court also made a reference to the disturbing fact that a number of cases for trial of offences registered under the Act are pending in Courts of the Judicial Magistrate First Class for a long period, sometimes upto 6 years and in a few cases as long as 6 to 8 years. The High Court directed that all cases under the Act shall be taken up on top priority basis and the Metropolitan Magistrates, Mumbai and the J.M.F.Cs. in other Districts shall try and decide such cases with utmost priority and preferably within one year.

Case 6: Radiological & Imaging Association (State Chapter-Jalna) v. Union of India and Others, August 2011⁹⁴

Issue involved

In this petition under Article 226 of the Constitution, the petitioner Radiological & Imaging Association (State Chapter Jalna) had challenged the circular dated 14 January 2011 of Collector and District Magistrate, Kolhapur (exhibit `F`) requiring the Radiologists and Sonologists to submit online form F under the Preconception and Prenatal Diagnostic Techniques Rules, 2003. The Association had also challenged the circular dated 10 March 2010 (exhibit `A`) issued by the

94. Radiological & Imaging Association (State Chapter- Jalna) v. Union of India and Others [Writ Petition No.797 of 2011], Bombay High Court

Collector in which reference is made to the workshop of doctors, sonologists and radiologists of Kolhapur held on 8 March 2010 and to the discussion at the said workshop for installation of SIOB (silent observer) for all the sonography machines, as a part of 'save the baby' campaign for improving sex ratio in the district.

Contentions of the petitioners

Dr. Jignesh G. Thakker, Coordinator of the petitioner association argued that (i) The impugned letter/circular of the Collector and District Magistrate, Kolhapur requiring the doctors/ radiologists /sonologists to submit form 'F' is without authority of law and not supported by any provision of the Act or the Rules; (ii) sharing of information about the foetus of the patient in pursuance of the instructions dated 10 March 2010 and 14 January 2011 is an invasion into the patient's right to privacy; and (iii) the impugned actions of the Collector and District Magistrate, Kolhapur result into breach of confidentiality and privacy and therefore, constitute an offence punishable under section 72 of the Information Technology Act, 2000.

Contentions of the Respondents i.e. Collector and District Magistrate, Kolhapur

In the affidavit on reply, the learned counsel for the District Magistrate, Kolhapur submitted that Kolhapur district had 250 sonography centres as on 1 January, 2011 and each month more than 12000 sonography tests were being conducted on pregnant women in the district i.e. 1,50,000 tests per annum. It had become impossible for district and sub district appropriate authorities to carry out 100% inspection and to study and scrutinize 'F' forms being received in such large numbers every month from the sonography as per Section 4 and Rule 9 of the PC&PNDT Act. It required a lot of manpower to monitor the submission of 'F' form from all centres and its analysis for necessary action under the Act and the Rules. The district administration came across two blatant violations of the Act viz. underreporting and false reporting of sonography tests. In order to overcome these problems, the District administration evolved the impugned methods: (i) Submission of 'F' form online on daily basis by the sonography centers instead of monthly basis and (ii) installation of silent observer (SIOB) in the sonography machines.

The counsel further submitted that submission of 'F' form online on daily basis helped the district authority, namely, Civil Surgeon to analyse the monthly data expeditiously because online record in form 'F' was readily available on computers for the analysis and, action if needed, and for corrective course for proper enforcement of the Act. This new scientific innovation of online 'F' form was an added tool in the hands of district appropriate authorities for analysis of huge data (more than 12000 'F' forms on average per month) to take needful action. Together with online submission of 'F' forms, the silent observer addressed both the problems of underreporting or false reporting. As soon as doctor/radiologist opens the sonography machine, the silent observer captures and stores the video output of each sonography test which shows the age of foetus and abnormality if any. Thus, each sonography test is counted and can be crosschecked with the 'F' form submitted online. In case of suspected medical termination of pregnancy, the district administration can check the 'F' form and verify the truthfulness by comparing video of sonography test. For instance, in order to show that the MTP is for medical purpose and not as a result of sex selection, the age of aborted foetus was normally shown as below 12 weeks, in which case the sex was not necessary to be mentioned in the report. In order to escape from the provisions of the Act, many doctors/radiologists indulge in false reporting in form 'F' in this fashion. By crosschecking, the information submitted in 'F' form online with the data stored in the silent observer, it was possible for the appropriate authority to detect false reporting in form 'F' and then to track down MTP for the purpose other than the medical purpose.

It was submitted that after installation of silent observer on the ultrasound machines in the sonography centres in Kolhapur district, reporting of sonography tests of pregnant women had increased to 34 percent more.

On the question of breach of privacy right of the patient by sharing the images of the sonography with the appropriate authority, it was submitted that only the appropriate authority has access to this information and only the appropriate authority can assign the work of analysis to the officer authorized by the appropriate authority. The existing provisions of the Act and the Rules themselves require the ultrasound clinics to give access to the information to the appropriate authorities and to the officers authorized by the appropriate authority. As regards the silent observer, it was submitted that silent observer

did not transmit the information stored in the device embedded on the ultrasound machine to the office of the Collector through any district server or any other server but it very much remained within the premises of the registered ultrasound centre. Otherwise also, the registered ultrasound centre was required to store all its records, registers, sonography slides etc. for a period of two years. The silent observer stores images generated during the ultra sonography test, so that when the appropriate authority desires, or the officer authorized by the appropriate authority requires to crosscheck the information supplied in the 'F' form online, the appropriate authority or authorized officer would go to the ultrasound centre and obtain the information stored in the silent observer in the presence of the concerned radiologist/sonologist and in the presence of another radiologist/sonologist of the District.

The counsel for the District Magistrate further submitted that the impact of innovative measures introduced by the Collector and District Magistrate, Kolhapur was so significant that the sex ratio, which was 839 girls per 1000 boys in the district in May 2010, has gone up to 876 girls per 1000 boys in January 2011.

Decision of the Court

Concurring with the contentions of the counsel for the Collector and District Magistrate, Kolhapur, a Division Bench comprising Chief Justice Mohit S. Shah and Justice Smt. R. P. Sondurboldota of the Bombay High Court dismissed the petition and declined to interfere with the instructions of the Collector and District Magistrate, Kolhapur.

The court held that the instructions to submit "F" form online within 24 hours are in keeping with the letter and spirit of Section 17(4) of the PC&PNDT Act while the instructions sent by the Collector and District Magistrate, Kolhapur requiring the sonologists/persons in charge of ultrasound machines to install SIOB (popularly known as silent observer) are within the letter and spirit of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act and Rules made there under. The Court held that the requirement of sub section (1) of Section 4 of the Act to maintain the complete record of ultra sonography on pregnant women and the mandate of Section 17(4) of the Act requiring the Appropriate Authority to take immediate action on investigation of complaints of breach of provisions of the Act and the Rules would include the

power to require the ultrasound clinic to submit the online information in form 'F' within 24 hours, and to keep the ultra sonography slides stored in the silent observer embedded on the ultrasound machine.

On the violations of Section 72 and 72A of the Information Technology Act, 2000, the Court held that the information received by the appropriate authority through 'F' forms online were not received in exercise of any powers under the Information Technology Act, 2000 nor under the Rules and regulations there under but under the provisions of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Rules there under and that provisions of the PC&PNDT Act, 1994 and the Rules there under, definitely prevail over the provisions of sections 72 and 72A of the Information Technology Act, 2000.

With regard to the allegation of invasion of privacy rights, the Court held that in view of the above factual backdrop of the case, the petitioners' contention that there would be violation of privacy rights was without any substance.

Case 7: Prem Niketan Hospital v. State (Medical and Health) & Ors, July 2012⁹⁵

The registration of sonography machine of the petitioner i.e. Prem Niketan Hospital had expired on 18.1.2009 and the petitioner had applied for renewal on 7.6.2011 after more than a period of two years from the date of expiry. Application for renewal filed by the petitioner was rejected. Vide an order dated 1.7.2011 under Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 as amended on 31.5.2011 had imposed a condition that the petitioner shall not open the seal and shall not undertake sonography of any patient without registration. The machine was being used without any valid registration certificate.

By way of this Writ Petition, the petitioner challenged the order dated 1.7.2011 passed by the Magistrate. The petitioner contended that the amendment made in Rule 11(2) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 was ultra vires on the ground that

95. Prem Niketan Hospital v. State (Medical and Health) & Ors, Writ Petition (C) No.96/2012, Rajasthan High Court, Decided on 23 July 2012

the Rule does not deal with renewal of already registered machine. It was also submitted that Rule was against the provisions of natural justice and that it was applicable to the sonography machines of the organizations which were not registered at all and not in the cases where they were registered but it has not been renewed.

A Division Bench comprising Chief Justice Arun Mishra and Narendra Kumar Jain-I of the Rajasthan High Court dismissed the Writ Petition holding that it has not found any ground in the petition to declare the Rule 11(2) of the Rules to be ultra vires. The Court held that a bare reading of the Rule makes it clear that the organization has to be registered otherwise action has to be taken as per provisions of Section 23 of the PC&PNDT Act, 1994. It cannot be said to be illegal or arbitrary.

Case 8. Dr. Sujit Govind Dange v. State of Maharashtra and others, August 2012⁹⁶

This case pertains to Dr. Sujit Govind Dange of Navi Mumbai, Maharashtra who had challenged the legality and authority of the order dated 21 June 2011 passed by the Appropriate Authority for suspension of the registration of his clinic and order dated 9 November 2011 passed by the Appellate Authority. The petitioner had challenged the action of sealing of sonography machine/s and suspension of licence of the petitioner's clinic on the following grounds:

- (i) The order of suspension of registration is passed by the appropriate authority without following the procedure laid down under section 20(1) and (2) of the Act.
- (ii) That the powers conferred under section 20(3) of the Act is an extraordinary power required to be exercised in an exceptional circumstance and that too after recording reasons. The impugned action is in violation of the provisions of section 20(3) of the Act.
- (iii) It was mandatory to obtain advice of the Advisory Committee before taking action of suspension of registration under section 20 of the Act.
- (iv) Suspension of licence cannot be for an indefinite period.

96. Writ Petition No. 11059 of 2011, Dr. Sujit Govind Dange v. State of Maharashtra and others

- (v) The irregularities and discrepancies being of a minor nature do not warrant suspension of registration and seizure of ultrasonography machine.

Rejecting all the contentions raised by the petitioner, the Bombay High Court in its judgment delivered on 16 August 2012 dismissed the petition of Dr. Sujit Govind Dange ruled as under:

“.....In the instant case, the petitioner having admitted the existence of deficiency and inaccuracy in keeping and maintaining the record including Form `F` has resulted in contravention of the provisions contained in section 5 or 6 and, therefore, would amount to an offence and can be treated to be sufficient reason for the appropriate authority to invoke the provisions of sub-section (3) of section 20 of the Act in the larger public interest and, therefore, the action of suspension of registration of the Genetic Centre of the petitioner is sustainable in law till such time contrary is proved by the petitioner. Similarly, in the instant case also, the prosecution has been launched against the petitioner, though at a subsequent stage, which is pending before the competent criminal Court. The contentions canvassed by the learned counsel for the petitioner, in this regard, therefore, suffer from lack of merit and, therefore, the same are rejected.”

In conclusion, the Bombay High Court held *“In view of the above settled legal position, the impugned orders passed by the Appropriate Authorities are neither arbitrary nor violative of Article 14 of the Constitution and are sustainable in law and it is for the petitioner to prove before the criminal Court that there was no deficiency or inaccuracy in maintaining and preserving the complete record of the clinic.”*

Case 9. Prakash Patel v. State Appropriate Authority, February 2013⁹⁷

On 16 April 2011, the officer of the Appropriate Authority (Respondent No.2) visited the premises of the petitioner Dr. Prakash Patel, MD/DGO and practicing in the field of gynecology and obstetrics in Surat, Gujarat. The officer did not find any material object/record with regard to sex determination of the foetus. However, the officer seized office copies of Form-F for the period from 15 July 2009 to 3 February 2010. On 18 April 2011, show cause notice was issued to Dr. Patel, which was replied on 29 April 2011. On 23 May 2011, the Appropriate Authority cancelled the registration of the Dr. Patel. An appeal was filed by Dr. Patel before the District Advisory Committee (Respondent No.1)

97. Prakash Patel v. State Appropriate Authority, Gujarat High Court at Ahmedabad, 18 February 2013

against the said decision. However, the respondent No.1 authority dismissed the appeal vide order dated 12 August 2011. Being aggrieved with the orders, Dr. Patel filed the petition before the Gujarat High Court. In his petition, Dr. Patel contended that the orders were absolutely unjust, improper, incorrect, malafide, prejudicial and not in consonance with the provisions of the Act and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.

On 18 February 2013, the Gujarat High Court after hearing both the parties dismissed the petition of Dr. Patel concluding that no illegality has been committed by the Appropriate Authority and District Advisory Committee. The High Court observed *“From the above it becomes clear that deficiency or inaccuracy in filling Form-F prescribed under Rule-9 of the Rules made under the PNDT Act being a deficiency or inaccuracy in keeping the records in the prescribed manner, it is not a procedural lapse but an independent offence amounting to contravention of the provisions of Section 5 or 6 of the PNDT Act and it has to be treated and tried accordingly.”*

Case 10: Dr. Radhakrishna v. the State of Maharashtra, May 2014⁹⁸

In this case, the petitioners had filed the petition to quash complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.

According to the Petitioners, on 9 May 2012, the Respondent No.2 and Dr. Madhuri Thorat and Dr. Madhav Munde, Residential Medical Officer, District Civil Hospital, Aurangabad and Divisional Vigilance Cell visited the hospital and noticed certain lacunae, for which notice was issued on 9 May 2012. The petitioners replied on 12 May 2012 explaining the lacunae pointed out. The Petitioners denied the allegations made in the notice about Form F. On 29 November 2012, Deputy Director of Health Services informed that lacunae have been noticed and there was violation of the Act and Rules. Subsequently, Respondent No.4 filed criminal proceedings against the petitioners before Judicial Magistrate, First Class, Sillod, Dist-Aurangabad for violation of provisions under the Act, referring to Section 23 and 29 of the Act.

98. Dr. Radhakrishna vs The State of Maharashtra

The lacunae pointed out included Form F being used was not as per the Act, steps taken to get entry made in the certificate of registration, of portable sonography machine kept in the store, time was not specified regarding sonologist in the certificate, signatures of Dr. Zalwar in the forms were different, and non mentioning of reasons for abortion in the records.

The High Court while extensively referred to the judgment of the Full Bench of High Court of Gujarat in *Suo Motu vs. State of Gujarat* reported in 2009, which held that criminal consequences are attracted and there can also be suspension of the registration for not maintenance of records properly under the Act. The High Court also referred to the judgment in *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* reported in 2013, wherein it was held that any deficiencies noticed in maintaining the record, in specially Form F, attracts the provisions of the Act.

The High Court observed *“It is clear that it would be premature to accept explanations regarding inaccuracies or deficiencies before trial takes place. It is further apparent that if the lapse is insignificant, the benefit would go to the accused at the time of sentence, but claiming that deficiencies in Form F and keeping Records are insignificant, cannot be reason to claim that no offence is there and to discharge the accused.”* Further, the High Court keeping in view the observations of the judgment in *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* observed *“there remains no doubt that deficiencies or inaccuracies in the maintaining of record and Form F attract the provisions of Section 5 or 6 of the Act. I am bound by the Judgment of the Division Bench of this Court.”*

The High Court clarified that *“When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved. Naturally, the contrary can be “proved” only at the trial. Appropriate Authority under the Act*

is Public Servant acting in discharge of official duty and has to act with responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out.”

In conclusion, the High Court on 9 May 2014 rejected the arguments and submissions of the petitioners to quash the proceedings as devoid of substance.

Case 11: Dr. Vijaymala v. the State of Maharashtra, May 2014⁹⁹

This petition was filed before the Bombay High Court to quash the complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.

The Petition stated that on 9 May 2012, Medical Superintendent, along with Dr. Madhuri Thorat, Dr. Madhav Munde, Residential Medical Officer, District Civil Hospital, Aurangabad and Divisional Vigilance Cell and Technical Officer visited the hospital Indumati Netralaya and Sonography Centre, Main Market, Sillod, of the Petitioner. Certain lacunae were found in maintaining of Records and notice was issued on 9 May 2012 regarding five lacunae, which was replied by the Petitioner on 12 May 2012. On 22 November 2012, the Sonography Machine was sealed and registration was suspended. A Case being S.C.C. No.862 of 2012 was filed on 5 December 2012 before Judicial Magistrate, First Class, Sillod and process was issued. The petitioner claimed no offence was made out against the Petitioner and sought that the criminal proceedings be quashed and set aside.

The Appropriate Authority had found the following defects namely 1) Monthly report indication was not specified, 2) Form F including 19 points was not according to PC&PNDT Act Book (Column No.11), 3) Self Referral of patients (without referral slip) was done, 4) Timing of Radiologist not displayed outside, and 5) Referral slip were incomplete, No signature of Doctor, No indication.

The High Court referring to the judgment of the Full Bench of High Court of Gujarat in *Suo Motu vs. State of Gujarat* delivered in 2009 observed *“It is clear that it would be premature to accept explanations regarding inaccuracies or deficiencies*

99. Criminal Writ Petition No.21 of 2013, Bombay High Court, Judgment delivered on 9 May 2014

before trial takes place. It is further apparent that if the lapse is insignificant, the benefit would go to the accused at the time of sentence, but claiming that deficiencies in Form F and keeping Records are insignificant, cannot be reason to claim that no offence is there and to discharge the accused.”

The High Court also made reference to judgment of *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* delivered by the Bombay High Court in 2013. In that matter Division Bench of the Bombay High Court held that any deficiencies noticed in maintaining the record, in specially Form F, attracts the provisions of the Act. Basing on this judgment, the High Court further held that *“there remains no doubt that deficiencies or inaccuracies in the maintaining of record and Form F attract the provisions of Section 5 or 6 of the Act. I am bound by the Judgment of the Division Bench of this Court.”*

The High Court observed *“When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved.” Naturally, the contrary can be “proved” only at the trial. Appropriate Authority under the Act is Public Servant acting in discharge of official duty and has to act with responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out.”*

In conclusion, the High Court on 9 May 2014 while rejecting the petition observed *“It cannot be said, at present, that there is no sufficient ground for proceeding. Keeping in view Aims and Objects of the Act and Scheme of the Act and Rules referred above and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, I am unable to accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds*

to proceed are made out in the complaint”.

Case 12: Dr. Vinayak v. the State of Maharashtra, May 2014¹⁰⁰

This petition was filed before the Bombay High Court to quash the complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.

The Petitioners claimed that the Petitioner No.1 had got registered sonography centre at Jyoti Maternity Home and Sonography Clinic in Surananagar, Aurangabad. Both the Petitioners were doctors. Petitioner No.1 was running the clinic since 1996. Municipal Corporation granted registration to Petitioner No.1 to run sonography centre in 2002. On 4 June 2012, Respondent No.2 - Appropriate Authority carried out inspection and only on the ground that Form F was not properly filled, sealed the sonography machines and suspended the registration. The Petitioner No.1 filed appeal to the State Authorities and when the same failed, Petitioner No.1 filed this Writ Petition being No.10191 of 2012 and got relief in the same. During the pendency of the Writ Petition, Criminal Case No.1635 of 2012 was filed by Respondent No.2 in the Court of Chief Judicial Magistrate, Aurangabad and in the complaint both the Petitioners were made accused. The Petitioner No.2 had claimed that she was made an accused despite having no link with the sonography centre. Whereas the petition claimed that no offence was made out against them and the proceedings need to be quashed and set aside.

The defects alleged in Complaint, among others, included records were not kept as required under the Act and Rules, many deficiencies and irregularities in filling of Form F, and signatures of pregnant ladies and sonologists were not taken in some affidavits.

The High Court based on the judgment passed by the Full Bench of High Court of Gujarat in *Suo Motu vs. State of Gujarat* delivered in 2009 and judgment passed by the Bombay High Court *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others*, reported in 2013 held that there remains no doubt

100. Criminal Writ Petition No. 5 of 2013, Bombay High Court, Judgment delivered on 9 May 2014

that deficiencies or inaccuracies in the maintaining of record and Form F attract the provisions of Section 5 or 6 of the Act.

Further, the High Court observed *“When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court cwp5.13 to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved.” Naturally, the contrary can be “proved” only at the trial. Appropriate Authority under the Act is Public Servant acting in discharge of official duty and has to act with responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out.”*

In conclusion, the High Court on 9 May 2014 while rejecting the petition observed *“It cannot be said, at present, that there is no sufficient ground for proceeding. Keeping in view Aims and Objects of the Act and Scheme of the Act and Rules referred above and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, I am unable to accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds to proceed are made out in the complaint”*.

Case 13: Dr. Ravindra v. the State of Maharashtra, May 2014¹⁰¹

This petition was filed to quash the complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. According to the petition, Petitioner No.2 was running her Maternity Home wherein

101. Dr. Ravindra vs The State of Maharashtra, Bombay High Court, 9 May 2014

Petitioner No.1 was running his registered sonography centre under the name “Suvidha Hospital and Sonography Centre” at Jamner.

According to the Petitioners, Respondent purporting to be Appropriate Authority conducted Panchnama of the sonography machine on 1 December 2011 and issued notice and sealed the sonography machine on 13 December 2011. The petition also stated as to how Petitioners moved the Courts and Judicial Magistrate, First Class, Jamner, vide order dated 19 May 2012 directed to open seal of sonography machine and so Writ Petition No.2121 of 2012 filed by the Petitioner No.1 in the High Court came to be withdrawn on 20th June, 2012. According to the Petitioners, Respondent had given notice dated 9 December 2011 (Exhibit G) claiming violation of the provisions of the Act and Rules. The Petitioners gave appropriate reply on 12 December 2011. According to the Petitioners, even the District Advisory Committee accepted the explanation of the Petitioners and recommended to open the seal of the sonography machine. However, according to the Petitioners, the Respondent filed complaint bearing R.C.C. No.56 of 2012 before the Court of J.M.F.C., Jamner alleging offence under Sections 4(3), 5, 6, 27 read with Sections 23, 25 and 28 and Rules 9(1)(4), 10(1-A) of the Act and Rules.

While the Appropriate Authority claimed that during the visit to the hospital of the Petitioners, it was found that on 15 May 2011 and 9 June 2011 accused conducted sonography on pregnant woman Nayana Sunil Gaikwad and Shabana Tadvi. However, in F Forms, column No.4 i.e. number of children was not filled. On 27 January 2011 and 23 April 2011 the accused had conducted sonography on two pregnant women, Sarita Gosavi and Parvatabai Dahatonde. But in inspection it was found that declaration forms of both the patients in Form F were not maintained and their signatures/thumb impressions were not obtained. It was noticed that on 17 May 2011 one Maya Jadhav, pregnant woman was examined but her F Form was not completed and column No.17 was left blank. On 23 November 2010 accused examined one Seema Kalse and in Form F in column No.14 it was shown that there is “missed abortion” and in column No.18 it was shown “advise for M.T.P.”. However in column No.19 nothing was written and it was left blank. Therefore complainant seized registers of F Forms, M.T.P. registers from 1st August 2011 and prepared Panchnama. Show cause notice was issued to accused on 9 December 2011 and accused replied on 12 December 2011. In reply, the Petitioners supplied on-line F Forms

but Petitioner manipulated the declaration of Savita Gosavi and Parvatabai Dahatonde, while declaration forms of both parents were without signatures/thumb impressions when the record was seized by the complainant.

The High Court referring the judgment passed by the Full Bench of High Court of Gujarat in *Suo Motu vs. State of Gujarat* in 2009 observed that “*criminal consequences are attracted and there can also be suspension of the registration for non maintaining records properly under this Act*”. The Court further observed “*It is clear that it would be premature to accept explanations regarding inaccuracies or deficiencies before trial takes place. It is further apparent that if the lapse is insignificant, the benefit would go to the accused at the time of sentence, but claiming that deficiencies in Form F and keeping Records are insignificant, cannot be reason to claim that no offence is there and to discharge the accused.*”

The High Court also referred the case of *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* delivered by a division bench of the Bombay High Court in 2013 wherein the Division Bench held that any deficiencies noticed in maintaining the record, in specially Form F, attracts the provisions of the Act. Keeping in view the observations of the Division Bench in the case of *Sujit Govind Dange*, the High Court observed “*there remains no doubt that deficiencies or inaccuracies in the maintaining of record and Form F attract the provisions of Section 5 or 6 of the Act. I am bound by the Judgment of the Division Bench of this Court.*”

Further, the High Court observed “*When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved.” Naturally, the contrary can be “proved” only at the trial. Appropriate Authority under the Act is Public Servant acting in discharge of official duty and has to act with*

responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out.”

In conclusion, the High Court on 9 May 2014 while rejecting the petition observed *“It cannot be said, at present, that there is no sufficient ground for proceeding. Keeping in view Aims and Objects of the Act and Scheme of the Act and Rules referred above and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, I am unable to accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds to proceed are made out in the complaint.”*

Case 14: Fajjan Multi Speciality Hospital v. the State of Maharashtra, May 2014¹⁰²

This petition was filed to quash complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. The case of Petitioner was that Mundadatal Charitable Trust ran Fajjan Multi Speciality Hospital in Kaij, Beed district.

On 20 June 2011, Appropriate Authority conducted raid on the hospital. At that time sonography centre was locked and key was with radiologist Dr. Pradip P. Dama. Appropriate Authority fixed seal on the lock of the door and seized records and conducted Panchnama as well as issued notice to the Petitioner, informing that F Forms filled in were incomplete and her explanation was sought.

The Appropriate Authority filed private complaint against the Petitioner and also the radiologist Dr. Dama, for violation of Rule 9(4), 10(1) and (1-A) as well as Section 29 read with Sections 23(1) and 25 of the Act, before the Judicial Magistrate, First Class, Kaij. The complaint was registered as R.C.C. No.145 of 2011. According to the Petitioner, she was not concerned with the sonography tests which were being conducted and without considering this, process was issued against the Petitioner. The Petitioner was non medico and not competent to herself operate the machine and to maintain the records. Against the order of

102. Fajjan Multi Speciality Hospital vs The State of Maharashtra, Bombay High Court, 9 May 2014

issue of process, Criminal Revision No.26 of 2012 was filed before the Sessions Court at Ambajogai, but the same was dismissed. Thus, this Petition was filed. According to the Petitioner, she was only President of the Trust which runs the hospital and she was not liable to maintain the record, as qualified radiologist had been appointed. She could not be proceeded against under Section 23 of the Act. Even under Section 26 of the Act, there is no liability if offence is committed without the knowledge of the person or in spite of due diligence by the person. The Petitioner cannot be held responsible for non filling of columns of Form F and wants the criminal case to be quashed and set aside.

The High Court referring the judgment passed by the Full Bench of High Court of Gujarat in *Suo Motu vs. State of Gujarat* in 2009 observed that “*criminal consequences are attracted and there can also be suspension of the registration for non maintaining records properly under this Act*”. The Court further observed “*It is clear that it would be premature to accept explanations regarding inaccuracies or deficiencies before trial takes place. It is further apparent that if the lapse is insignificant, the benefit would go to the accused at the time of sentence, but claiming that deficiencies in Form F and keeping Records are insignificant, cannot be reason to claim that no offence is there and to discharge the accused.*”

The High Court also referred the case of *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* delivered by a division bench of the Bombay High Court in 2013 wherein the Division Bench held that any deficiencies noticed in maintaining the record, in specially Form F, attracts the provisions of the Act. Keeping in view the observations of the Division Bench in the case of *Sujit Govind Dange*, the High Court observed “*there remains no doubt that deficiencies or inaccuracies in the maintaining of record and Form F attract the provisions of Section 5 or 6 of the Act. I am bound by the Judgment of the Division Bench of this Court.*”

Further, the High Court observed “*When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies,*

before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) "any" deficiency or inaccuracy in keeping of complete record "shall amount to contravention" of Section 5 or 6 "unless contrary is proved." Naturally, the contrary can be "proved" only at the trial. Appropriate Authority under the Act is Public Servant acting in discharge of official duty and has to act with responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out."

In conclusion, the High Court on 9 May 2014 while rejecting the petition observed *"It cannot be said, at present, that there is no sufficient ground for proceeding. Keeping in view Aims and Objects of the Act and Scheme of the Act and Rules referred above and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, I am unable to accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds to proceed are made out in the complaint."*

Case 15: Dr. Dattatraya v. the State of Maharashtra, May 2014¹⁰³

This Petition was filed to quash complaint filed by Appropriate Authority under the provisions of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.

According to the Petitioner, he was running his hospital at Rahata. On 16 July 2007 Medical Superintendent, Rural Hospital, Rahata- Respondent No.2 along with other Officers visited his hospital and carried out inspection and found technical discrepancies/faults on the part of the Petitioner. Respondent No.2 issued show cause notice on 17 July 2007. The Petitioner replied on the same day. Respondent No.2 suspended registration certificate of sonography machines and sealed the machines. Respondent filed Complaint bearing R.T.C. No.153 of 2007 in the Court of Judicial Magistrate, First Class, Rahata, under Section 29, Rule 9(4) of the Act alleging that there were various discrepancies in the maintenance of the Records. Thus, breach of Sections of the Act and Rules

¹⁰³ . Dr. Dattatraya vs The State Of Maharashtra on 9 May, 2014 available at <https://indiankanoon.org/doc/146912044/>

was alleged. The Judicial Magistrate, First Class, Rahata issued summons to present Petitioner. The Petitioner filed Criminal Revision No.17 of 2008 before District and Sessions Judge, Kopargaon, which came to be rejected and thus this Petition was filed, claiming that the complaint concerned before the Judicial Magistrate should be quashed. The Petitioner claimed that only irregularities and no illegalities were there and no offence was made out.

While according to the Respondent, there were irregularities in record keeping as per revised Form F. As per the Respondents, Petitioner did not completely fill up Form F and only half portion of the Form was filled up. Second part of the Form F was filled up but was incomplete. The affidavit claimed that in the forms concerned, the Petitioner had not mentioned how many issues were there i.e. male/female. Further in the declaration given by doctor, authorized signatory was radiologist Dr. Yogendra Sachdeo, but the declaration was signed by the Petitioner.

The High Court while referring to the judgment in the case of *Sujit Govind Dange (Dr.) and another vs. State of Maharashtra and others* delivered by the Division Bench of the Bombay High Court in 2013 observed that “any deficiencies noticed in maintaining the record, in specially Form F, attracts the provisions of the Act.” Keeping in view the observations of the Division Bench in the case of “Sujit Govind Dange”, the High Court observed “When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter: As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved.” Naturally, the contrary can be “proved” only at the trial. Appropriate Authority under the Act is Public Servant acting in discharge of official duty and has to act with responsibility. Keeping in view the Judgments discussed above, in such serious matters, it would be inappropriate to interfere when prima facie case is made out.”

On 9 May 2014, the High Court rejected the petition ruling that *“It cannot be said, at present, that there is no sufficient ground for proceeding. Keeping in view Aims and Objects of the Act and Scheme of the Act and Rules referred above and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, I am unable to accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds to proceed are made out in the complaint.”*

Case 16: Dr. Sau Nirmala w/o Ramprasad Bajaj v. the State of Maharashtra, May 2014¹⁰⁴

The Appropriate Authority - Respondent No.2 along with other officers had, on 6th October, 2010 carried out inspection at the clinic of the Petitioner. At the time of inspection it was found that the Petitioner was using unregistered “Thosbro Shimadzu” Sonography Machine. The sonography tests were being carried out without obtaining consent forms of the patient or pregnant women in the language known to them and the sonography tests were being done without maintaining necessary records such as Form ‘F’, and O.P.D. register, receipt books, charts, report etc. In addition to Petitioner, complaint had been filed against Dr. Rajendra Kalantri (Accused No.2), Dr. Anand Karnawat (Accused No.3) and one Ravi Nandapurkar of Toshbro Private Limited (Accused No.4). In the inspection it was found that Accused No.2 was registered as radiologist, however the sonography tests were being performed by Accused No.3 who was not registered and such illegalities were found in the hospital.

The Respondent No.2 filed complaint R.C.C. No.174 of 2010 against the Petitioner and others for offence under Sections 3(2), 4(3), 29(1), 5(1), 3(3), 4(2), 6 and 3-B of the Act. The Judicial Magistrate, First Class, Majalgaon issued summons. Being aggrieved, Criminal Revision No.28 of 2010 was filed before the Additional Sessions Judge, Majalgaon but the same was dismissed, the present Petition was filed in the Aurangabad Bench of the Bombay High Court.

Issues before High Court

104. Dr. Sau. Nirmala w/o Ramprasad Bajaj v. The State of Maharashtra (Criminal Application No. 3966 of 2013, Bombay High Court, Decided on 9 May 2014

The case of the Petitioner was that despite necessary compliances, the Appropriate Authority i.e. Respondent No.2 during inspection carried out at the clinic of the Petitioner on 6th October, 2010 found certain deficiencies and filed complaint bearing R.C.C. No.174 of 2010 against the Petitioner and others for offence under Sections 3(2), 4(3), 29(1), 5(1), 3(3), 4(2), 6 and 3-B of the PC&PNDT Act and the case was illegal and without jurisdiction.

According to the Petitioner, she was not involved in sex determination and the complaint did not disclose that criminal offence was committed. The Petitioner wanted the complaint to be quashed and set aside.

Contentions of the petitioner

The counsel for the Petitioner submitted that the complaint of the Appropriate Authority was that concerned Forms were not got filled in. It was submitted that vide letter dated 8th October, 2010 (Exhibit C) the Petitioner informed to the Authorities that the concerned deficiencies had been removed. The deficiency regarding non maintenance of Form F in Marathi had also been corrected, as the book of said Form has been got printed. It was argued that steps were taken to get the machine registered which was being used. It was further submitted that there were no allegations that the Petitioner disclosed gender and thus, no offence was made out and there were minor non compliances and errors which the Petitioner has corrected.

Contentions of the Public Prosecutor

The Public Prosecutor pointed out that the Petitioner vide reply dated 8th October, 2010 admitted that there were defects and errors in maintenance of the record. It was submitted that perusal of the complaint shows various non compliances of the provisions of the law and there were many deficiencies and defects noticed at the time of inspection. It was submitted that the Petitioner was using unregistered sonography machine “Thoshbro Shimadzu”, although the machine got registered with the Authorities was “Toshiba Shirmo-24”. Section 3-B of the Act prohibits sale of ultra sound machines to persons, laboratories, clinics which were not registered and as per Rule 13, any change of equipment is required to be informed to the Authorities. There were clear violations of the provisions of the Acts and Rules. The sonography tests were being carried out without maintaining necessary records such as Form F, and O.P.D. register, receipt books, charts reports etc. It transpired that Accused No.2 was registered

Radiologist to carry out sonography tests but in the inspection it was found that Accused No.3 was carrying out the sonography tests. Thus, according to the Public Prosecutor, these are various acts of violation of the provisions which had attracted the various Sections mentioned above.

Decision of the High Court

Declining to interfere with the order of the Additional Sessions Judge the Single Judge Bench of Justice A.I.S. Cheema of the Bombay High Court at Aurangabad dismissed the petition. The High Court held that it would be premature to accept explanations regarding inaccuracies or deficiencies before trial take place. It is further apparent that if the lapse is insignificant, the benefit would go to the accused at the time of sentence, but claiming that deficiencies in Form F and keeping Records are insignificant, cannot be reason to claim that no offence is there and to discharge the accused. The Court stressed that keeping in view Aims and Objects of the Act and Scheme of the Act and Rules and stringent and specific provisions not tolerating any (means any) deficiency or inaccuracy in keeping complete records, it cannot accept the explanatory arguments in defence or to invoke writ jurisdiction, inherent power or revisional jurisdiction to quash the proceedings at the threshold when sufficient grounds to proceed are made out in the complaint.

The relevant paragraph of the judgment is reproduced below:

“16. When the complaint has been filed under this Act showing the inaccuracies and deficiencies in the keeping of record, and complainant has documents to support disclosing sufficient grounds to proceed in the light of provisions of this Act and Rules, this Court cannot, before holding of the trial, sit in Judgment whether or not the Record has been kept properly; or Form F concerned has been properly filled or improperly filled; or whether or not the deficiencies pointed out are serious or insignificant. When complaint has been filed pointing out deficiencies or inaccuracies, before trial it would not be proper for this Court to consider the arguments that what is pointed out is no deficiency or no inaccuracy. It would be prejudging the matter. As per Proviso of Section 4(3) “any” deficiency or inaccuracy in keeping of complete record “shall amount to contravention” of Section 5 or 6 “unless contrary is proved.”

Case 17: Gagandeep v. District Appropriate Authority-cum-CMO Ambala

and others, March 2015¹⁰⁵

A complaint was filed by the District Appropriate Authority-cum-Chief Medical Officer, Ambala through Dr. Sangeeta Goyal, Deputy CMO-cum-Nodal Officer, Ambala. As per the complaint, Dr. B.B. Lala, SMO, CHC Barara received information from reliable sources that a medical practitioner, namely, Jaspal Singh was actively involved in sex determination racket at Ambala. Dr. B.B. Lala took the aid of two SMS (Shakshar Mahila Samooh) Pardhan, namely, Mrs. Pooja Rani of village Ugala and Ms. Rajni Sharma of village Adhoi. He was informed by Ms. Rajni Sharma on 08.07.2012 that she was asked by Jaspal Singh to come at Ambala on 09.07.2012 along with the pregnant lady for sex determination of the foetus. Subhash Chander, Multi Purpose Health Worker (Male), Civil Hospital, Barara was directed to hire a vehicle for bringing the abovementioned ladies on 09.07.2012 from their respective villages to Ambala. A request was forwarded to the District Appropriate Authority, Ambala-cum-CMO to constitute a team of officials for unearthing the said racket. A team consisting of Dr. B.B. Lala, SMO, CHC Barara and Dr. Pawan Kumar, Medical Officer, PHC Majri was constituted by the District Appropriate Authority. Mrs. Pooja Rani was used as a decoy patient seeking sex determination from petitioner – Pankaj Kumar Gupta and co-accused Jaspal Singh. Ms. Rajni Sharma in the presence of Dr. B.B. Lala intimated Jaspal Singh that they had reached Kalka Chowk, Ambala. They were asked to wait at the Bus Stop Kalka Chowk, Ambala by Jaspal Singh. Accordingly, they went to Bus Stop Kalka Chowk, Ambala. After an hour, a person sporting a turban came on a motorcycle and asked them to sit on the motorcycle. He took them to Manav Chowk, Ambala City where TATA Indica car bearing registration No.PB-39-F-0608 arrived. Ms. Rajni Sharma and Mrs. Pooja Rani (decoy patient) were asked to board the said car. The ladies were taken to village Sonda near Khera. Ms. Rajni Sharma and the decoy patient were taken to a house. On seeing the raiding party, driver of the Indica car tried to run away. The said driver was apprehended on the spot and identified as Gagandeep i.e., the petitioner. On raiding the premises, two ladies along with two other persons were found sitting in one room. One of the ladies disclosed her name to be Manjinder Kaur wife of Kuldeep Singh, resident of Banur and revealed that she had come to the premises for sex determination of the foetus

105. Gagandeep v. District Appropriate Authority-cum-CMO Ambala and others [Crl. Misc. No.M- 27591 of 2013(O&M)] & Pankaj Kumar Gupta v. State of Haryana [Crl. Misc. No. M- 5345 of 2014(O&M)], Punjab and Haryana High Court, Decided on 23.03.2015

she was carrying. Smt. Pooja Rani, the decoy patient was also sitting there. Petitioner – Pankaj Kumar Gupta was found using an unregistered Portable Ultrasound machine. The fourth person, Jaspal Singh owner of the house where the illegal clinic was set up was also found present. Portable ultrasound machine make Philips was recovered along with other articles. Petitioner - Pankaj Kumar is averred to have been running one Sanjeevni Lab near Bara Thakur Dwara, Ambala City. Raid was conducted on the said lab as well and it was found to be running illegally.

On the basis of the incriminating evidence recovered and violation of the provisions of Section 3, 4, 5, 6, 18 and 23 of the PC-PNDT Act being revealed, the above stated complaint was filed. FIR No.143 dated 01.07.2012 was also lodged.

The accused viz., Gagandeep and Pankaj Kumar Gupta have filed petitions (Crl. Misc.No.M-27591 of (Gagandeep v. District Appropriate Authority-cum-CMO, Ambala and others) and Crl. Misc.No.M-5345 of 2014 (Pankaj Kumar v. State of Haryana). Petitioners in both the above noted cases sought quashing of the complaint as well as summoning order dated 21.01.2013 passed by the learned Judicial Magistrate First Class, Ambala whereby they have been summoned to face trial for offence punishable under Section 23 of the PC-PNDT Act for violation of provisions of Sections 4, 5, 6, 18 of the PC-PNDT Act.

Contentions of the accused petitioners:

The counsel for the petitioners vehemently contended that the present complaint itself is not maintainable having been filed by a person not authorised to do so under the PC-PNDT Act. While referring to Section 28 of the PC&PNDT Act, it was submitted that it was only the appropriate authority which was competent to file the complaint. It was urged that in the present case, complaint had been filed by Dr. Sangeeta Goyal. As per Section 17(3) of the PC&PNDT Act, an appropriate authority has to be a Committee consisting of three members. State Government had to appoint one or more appropriate authority/ authorities for whole or part of the State for the purposes of PC&PNDT Act.

Relying on the Punjab and Haryana High Court decision dated 18.09.2013 in Civil Writ Petition No.21565 of 2011 (Help Welfare Group Society v. The

State of Haryana and others), the petitioners' counsel further contended that an appropriate authority necessarily has to be a three member body to ensure compliance of Section 17 (5) of the PC&PNDT Act. He further submitted that in view of this decision all actions taken under the previous notification had to be set at naught and that proceedings could not continue against the petitioners on this ground alone.

The petitioners' counsel further submitted that since notification dated 24.10.1997 itself was not published in the official gazette pertaining to appointment/nomination of Appropriate Authority under the PC&PNDT Act was null and void for not having been published in the official gazette, all actions taken thereunder were illegal, null and void.

Submissions of the Counsel for the State:

Opposing the petition, the counsel for the State submitted that appointment of District Appropriate Authority for the whole of State of Haryana was made vide notification dated 24.10.1997. When the procedural defect of this notification not having been published in the official gazette came to light, an ordinance was issued vide notification 21.07.2009 whereby all the acts, proceedings or the things done or actions taken or which maybe done or taken by the said Appropriate Authority were declared to be valid. Subsequently, this ordinance was superseded by the PC&PNDT, Haryana Validation Act, 2009 (Haryana Act No.19 of 2009) published on 14.09.2009.

The counsel for the State further contended that vide notification dated 07.11.2013, District Appropriate Authority had been constituted as a multi-member Authority consisting of three members i.e., Civil Surgeon as the Chairperson, District Programme officer Women and Child Development Department and District Attorney as its members. This has been done pursuant to order dated 18.09.2013 passed in CWP No.21565 of 2011.

Decision of the High Court

Vide its judgment and order dated 23.03.2015, a single judge bench comprising Justice Lisa Gill dismissed both the petitions declining to interfere. The bench held as under:

“Contention of learned counsel for the petitioners that all actions taken or proceedings initiated by the Appropriate Authority since the year 1997 are liable to be set aside, is not tenable. PC&PNDT Act was promulgated in order to address a social evil i.e., pre-natal diagnostic techniques for sex determination of foetus. Female foeticide pursuant to sex determination is a reality to which eyes cannot be closed. It is undisputed that in compliance of Section 17(2) of the PC-PNDT Act, Appropriate Authority had been notified to be the Civil Surgeon by the State of Haryana. Though it was not published in the official gazette, necessary steps were immediately taken when this procedural defect came to light in the year 2009. Ordinance dated 17.07.2009 as well as Haryana Validation Act No.19 of 2009 dated 28.08.2009 were passed and were duly notified on 21.07.2009 and 14.09.2009, respectively. To say that all acts undertaken earlier would be set at naught due to non-publication of 1997 notification in the official gazette, is not justifiable. It cannot be said to be a flaw which is fatal. At best, it can be termed to be an irregularity which has been set at right. Furthermore, direction of this Court that the Appropriate Authority should a multi-member body rather than the Civil Surgeon alone, cannot be stretched to mean that all acts, proceedings or actions undertaken or done by the Appropriate Authority as notified earlier would be set at naught or rendered illegal. This Court in CWP No.21565 of 2011 specifically afforded time to the State of Haryana for taking necessary steps to rectify the same. Admittedly, the multi-member Appropriate Authority has been notified.

Specific allegations of conducting illegal sex determination of pregnant women are leveled against petitioner - Pankaj and petitioner - Gagandeep is alleged to be actively participating in the same by ferrying the pregnant women for conduct of the said tests. It cannot be said at this stage that a perusal of the complaint does not disclose any offence against the petitioners or that continuance of the proceedings are an abuse of the process of law. However, no opinion is expressed on the merits of the case, lest prejudice be caused to either side. It can also not loss sight of that trial of this case is almost over. Entire evidence has already been led. Interference at this stage is neither warranted nor justified. Therefore, keeping in view the facts and circumstances of the case, both petitions seeking quashing of complaint as well as summoning order, are hereby dismissed.”

5. THE STATUS OF IMPLEMENTATION OF THE PC&PNDT ACT

Facilitating son preference is a booming business in India despite the same being criminalized under the “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act).

On 5 July 2016, the Supreme Court reprimanded online search engines Microsoft, Google and Yahoo of violating the PC&PNDT Act by hosting advertisements pertaining to pre-natal sex determination and directed the Government of India to remove them at the earliest with help from technical experts.¹⁰⁶ On 9 September 2016, Google, Microsoft and Yahoo assured the Supreme Court to block sites and advertisements offering kits to determine the foetus’ gender and facilitate female foeticide.¹⁰⁷

The advertisement of Google and others show the failure of the “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act)¹⁰⁸ which was enacted to prohibit and regulate the use of diagnostics techniques for sex determinations leading to sex selective elimination of female foetus.

As per the statement of the Government of India in the parliament, since the PC&PNDT Act came into force in 1994 to September 2014, the number of Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc registered under the PC&PNDT Act were 50,743; the number of pending court and police cases were 2,021; the number of convictions secured were 206; the number of suspension/ cancellation of medical license were 98; and the number of machines seized/sealed were 1,716. The statement of the Government of India in the Lok Sabha in response to Unstarred Question No. 799 answered on 27.02.2015 is reproduced below:

106. See SC slams Microsoft, Google, Yahoo for hosting sex determination Advts violating PNDT Act, Live Law, 5 July 2016, and http://sci.nic.in/FileServer/2016-07-05_1467718758.pdf

107. Google, other search engines to block content aiding female foeticide, SC told, The Tribune, 19 September 2016 <http://www.tribuneindia.com/news/nation/google-other-search-engines-to-block-content-aiding-female-foeticide-sc-told/297629.html>

108. See Chapter 19 ‘Gender Issues’, Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

Table 5: Annexure-III to Unstarred Question No. 799 answered on 27.02.2015¹⁰⁹

Status of registration, cases and convictions under PC & PNDT Act (up to September, 2014)						
S. No.	States/ UTs	No. of bodies registered	No. of on-going Court / Police Cases	No. of convictions	No. of suspension/ cancellation of medical license	No. of Machines Seized / Sealed
1	Andhra Pradesh	5003	52	0	0	132
2	Arunachal Pradesh	35	0	0	0	0
3	Assam	750	5	0	0	2
4	Bihar	1418	6	11	0	6
5	Chhattisgarh	691	7	0	0	0
6	Goa	156	67	0	0	1
7	Gujarat	4504	126	6	1	3
8	Haryana	1624	108	54	9	241
9	Himachal Pradesh	261	0	1	0	0
10	Jammu & Kashmir	336	6	1	0	71
11	Jharkhand	698	20	0	0	0
12	Karnataka	2878	45	0	0	0
13	Kerala	1548	0	0	0	0
14	Madhya Pradesh	1459	15	2	2	13
15	Maharashtra	9052	496	61	59	709
16	Manipur	87	0	0	0	0
17	Meghalaya	23	0	0	0	0
18	Mizoram	47	0	0	0	0
19	Nagaland	45	0	0	0	0
20	Odisha	685	24	3	0	6
21	Punjab	1396	127	28	4	0

109. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

22	Rajasthan	2292	595	37	21	402
23	Sikkim	24	0	0	0	0
24	Tamil Nadu	5494	77	0	0	72
25	Tripura	63	0	0	0	0
26	Uttarakhand	548	31	0	0	9
27	Uttar Pradesh	5300	137	1	0	34
28	West Bengal	2286	13	0	0	15
29	A & N. Island	10	0	0	0	0
30	Chandigarh	110	2	0	0	0
31	D. & N. Haveli	13	0	0	0	0
32	Daman & Diu	12	0	0	0	0
33	Delhi	1794	62	1	2	0
34	Lakshadweep	18	0	0	0	0
35	Puducherry	83	0	0	0	0
TOTAL		50743	2021	206	98	1716

An analysis of the data stated above shows that since 1994, an average of 100 cases per year were filed before police and courts for violations of the PC&PNDT Act. This abysmal state of implementation of the PC&PNDT Act is despite numerous directions of the Supreme Court in *CEHAT and Others v. Union of India*,¹¹⁰ *Voluntary Health Association of Punjab vs. Union of India & Ors*¹¹¹ and numerous judgments of the High Courts.

In the States affected by declining CSR, as of September 2014, Rajasthan filed maximum with 595 cases, followed by Maharashtra with 496 cases, Uttar Pradesh with 137 cases, Punjab with 127 cases, Gujarat with 126 cases, Haryana with 108 cases, Tamil Nadu with 77 cases, Goa with 67 cases, Delhi with 62 cases, Andhra Pradesh with 52 cases, Karnataka with 45 cases, Uttarakhand with 31 cases, Odisha with 24 cases, Jharkhand with 20 cases, Madhya Pradesh with 15 cases, West Bengal with 13 cases, Chhattisgarh with 7 cases, Bihar and Jammu & Kashmir with 6 cases each, Assam with 5 cases, and Chandigarh with 2 cases.¹¹²

110. Writ Petition (civil) 301 of 2000, *CEHAT and Others v. Union of India*

111. *Voluntary Health Association of Punjab vs. Union of India & Ors (2013) 4 SCC 1*

112. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

In terms of number of convictions secured, as of September 2014, the highest number of conviction was secured in Maharashtra (61), followed by Haryana (54), Rajasthan (37), Punjab (28), Bihar (11), Gujarat (6), Odisha (3), Madhya Pradesh (2), and Himachal Pradesh, Jammu & Kashmir, Uttar Pradesh and Delhi with 1 case each. The remaining 23 States/UTs have not recorded any conviction.¹¹³

Further, as of September 2014, 14 States/UTs i.e. Arunachal Pradesh, Himachal Pradesh, Kerala, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Andaman & Nicobar Island, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry¹¹⁴ had not filed a single case under the PC&PNDT Act since 1994 despite all these States having districts targeted under the *Beti Bachao Beti Padhao*, the flagship programme launched by the Prime Minister of India to arrest the falling CSR. Further, during the same period, no conviction was secured in Andhra Pradesh, Chhattisgarh, Goa, Jharkhand, Karnataka, Tamil Nadu, Uttarakhand and West Bengal and Union Territories of Chandigarh.¹¹⁵

As per Quarterly Progress Reports (QPRs) submitted by States/ UTs, a total of 2,152 court cases had been filed by various State Appropriate Authorities and 306 convictions had been secured under the PC&PNDT Act as of 15 March 2016.¹¹⁶ This indicates that a total of 131 cases were filed in about 18 months and 100 convictions secured, showing an improvement following specific directions of the Supreme Court of India in the *VHAI Punjab vs. Union of India* case.

5.1 Anomalies created by the officials in the implementation of the PC&PNDT Act

There are serious anomalies in the implementation of the PC&PNDT Act. These include i) non-renewal of registration, ii) non-maintenance of patients' details and diagnostic records, iii) absence of regular inspection of USG centres by DAAs, iv) lack of mapping and regulation of USG equipment, v) absence of tracking system in USG machines, vi) non-imposition of penalties, vii) insufficient decoy

113. Ibid

114. Ibid

115. Ibid

116. Written reply in Rajya Sabha by J. P. Nadda, Minister of Health and Family Welfare, Government of India on 15.03.2016 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137946>

operations, viii) no penalties against defaulting USG centres, and ix) lack of meetings by SAC and DAC for monitoring the proper implementation of the provisions of Act.

The Comptroller and Auditor General (CAG) of India in its latest report, “Performance Audit on Empowerment of Women Government of Uttar Pradesh” for the year ended 31 March 2015 has brought to fore gross anomalies in implementation of the PC&PNDT Act. The findings of Uttar Pradesh by the CAG covering the period from 2010-11 to 2014-15 are indicative of the situation across the country.¹¹⁷

i. Underutilisation of funds

The CAG audit noted that the failure to utilize funds led to allocation of Rs. 7.09 crore only (35 per cent) of the funds by Government of India as against the projected requirement of Rs. 20.26 crore during 2010-14. However, the State Government of Uttar Pradesh could only utilise only 54 per cent (Rs. 3.86 crore) of the meagre allocation of Rs. 7.09 crore made during 2010-14. Audit by CAG noted that Rs 1.93 crore, received by various district appropriate authorities in the form of fee or penalties, which was to be spent on monitoring, public awareness activities were lying unused in saving bank accounts.¹¹⁸

The CAG noted that meagre allocation of funds, failure of the State and district implementing agencies to utilise grants received from Government of India and fee collected from diagnostic centres indicated poor implementation of the Act in the State thereby leaving diagnostic centres largely unregulated and unmonitored, defeating the very purpose of the PC&PNDT Act.

ii. Non-renewal of registration leading to automatic renewal

Every certificate of registration shall be valid for a period of five years since its issue and application for renewal of registration should be made 30 days before the expiry of the certificate of registration along with the prescribed fee. If the Appropriate Authority fails to renew the certificate of registration within 90 days of its receiving the application for renewal, it will amount to automatic renewal or deemed renewal.

117. Report of the Comptroller and Auditor General of India For the year ended 31 March 2015 ‘Performance Audit on Empowerment of Women’ Government of Uttar Pradesh Report No. 3 of 2016

118. Uttar Pradesh failed to stand for unborn girls, The Times of India, 21 September 2016, <http://timesofindia.indiatimes.com/india/Uttar-Pradesh-failed-to-stand-for-unborn-girls/articleshow/54449959.cms>

However, the CAG Audit found in test-checked districts that pendency in renewal of registration of 138 centres ranged between 26 and 1490 days while registration of 32 centres had not been done in due time. The department was also not ensuring timely submission of application for renewal of registration by USG centres and taking action against the defaulters as Format H containing the details about USG centre such as date of receipt of application, Name, address of applicant, details of machine installed, recommendation of DAC, registration number allotted, date of renewal and renewed upto etc. are mentioned was not being maintained by DAAs.

Thus, these centres functioned as deemed to have been registered during the intervening period.

iii. Non-maintenance of patients' details and diagnostic records

Under the PC&PNDT Act and Rules it is mandatory for every genetic counselling centre, genetic laboratory, clinic, ultrasound clinic and imaging centre to maintain and preserve complete records of each case including details of the patient, details of doctor referring the pregnant women for ultrasonography, laboratory test results/ pictures/ plates/ slides and recommendations. Further USG centres were to intimate any change in its employees, place, address and installed equipment to DAA within thirty days.

The main aim of maintenance and preservation of these details and records is to facilitate proper inspection and monitoring by the authorities to ensure that prenatal diagnostic investigation had been carried out only on the recommendation of a qualified doctor on valid grounds and was not intended to be used for irregular sex determination and termination of pregnancy.

The CAG conducted joint physical inspections (JPIs) of 100 USG centres in test-checked districts of Uttar Pradesh. The JPIs revealed that 1,326 cases (68 percent) did not have referral slips of registered medical practitioner attached to them while details of procedure conducted and the purpose of such procedure were also not mentioned in 1,110 cases (57 percent). Basic details of patient, such as number of living children, phone number, address etc, to track records of pregnancy, were not filled in 961 cases (50 percent). In complete violation of section 29 of PC&PNDT Act, USG centres, the JPIs found that in all the test-checked USG centres (100 percent) that they did not keep backups/records of images taken during ultrasonography for the prescribed period.

The CAG Audit noticing large scale blatant violations of the provisions of the Act by USG centres indicated possible misuse of facilities by these centres for illegal sex determination and complete failure of the concerned authorities to effectively monitor and regulate their activities.

iv. Non maintenance of records by authorities

Rule 9 of the PC&PNDT Rules, 1996 mandates the District Appropriate Authority (DAA) to maintain a permanent record in Form H in which details about USG centre such as date of receipt of application, name, address of applicant, details of machine installed, recommendation of District Advisory Committee, registration number allotted, date of renewal and renewed upto etc., are mentioned about applicants for grant or renewal of certificate of registration along with basic details of centres. Maintenance of this information by DAA is essential to facilitate inspection and monitoring of the centres to verify and ensure that no unauthorised practices are being carried out by USG centres.

However, scrutiny by CAG revealed that in 13 out of 20 test-checked districts, details of USG centres have not been maintained by DAA. In the absence of such information, DAA were not able to effectively monitor USG centres and ensure that no unauthorised activities were undertaken by USG centres.

Further, CAG Audit revealed that 262 USG centres (16 per cent) in test-checked districts had not submitted their monthly reports regarding the details of patients in due time.

v. Absence of regular inspection of USG centres

In July 2013, the State Government of Uttar Pradesh instructed the DAAs to inspect two USG centre per week. As per Rule 18-A (8)(i) of PC&PNDT Amendment Rules, 2014, all the DAAs (District Magistrates) were to inspect and monitor all registered centres once in every 90 days and preserve inspection report as documentary evidence to ensure enforcement of the provisions of the Act by the USG centres.

However, scrutiny of the records of the directorate revealed that no inspection schedule was prescribed by the State Government for the period between April 2010 and June 2013. Only 4681 inspections (25 per cent) were conducted by DAAs during 2014-15 against 18488 targeted in the State while only 1561

against required 6608 inspections were carried out by DAAs of test-checked districts during 2014-15. Thus, there was a shortfall of 76 per cent in inspections in the test checked districts.

vi. Lack of documentation of inspection report

According to Rule 18-A (8)(ii), the District Appropriate Authorities had to conduct regular inspections of USG centres and place all inspection reports once in three months before District Advisory Committees for follow up action.

However, scrutiny of records of test-checked districts revealed that as per information furnished by district authorities, 3532 inspections of 1652 USG centres were carried out by DAAs in the test-checked districts during 2010-15, but only 130 inspection reports (four per cent) were issued to USG centres. The district authorities did not furnish information about placement of inspection reports before DACs. Non-issue of inspection reports to USG centres for compliance after inspection and non-placement before DACs defeats the purpose of carrying out the inspection and indicates the lackadaisical attitude of the authorities towards implementation of PC&PNDT Act.

vii. Lack of mapping and regulation of USG equipment

Rule 18-A (7) of PC&PNDT Amendment Rules, 2014 provides that all the Appropriate Authorities were required to regulate the use of ultrasound equipment; monitor the sales and import of USG machines; ensue regular quarterly reports from ultrasound manufacturers and dealers; conduct periodical survey and audit of all USG machines sold and operating in the State; and file complaint against any unregistered owner or seller of the USG machine.

However, scrutiny of records of test checked districts revealed that the department did not take any action for mapping of sale of USG equipment and also did not call for any information regarding sale, installation and possession of USG equipment from the manufacturers, suppliers, dealers, etc., due to which number of USG equipment installed and the location of their placement were not known to the authorities to regulate the use of all the ultrasound machines.

Therefore, in absence of information on placement and possession of USG machines the possibility of misuse of ultrasound machines could not be ruled out.

viii. Lack of tracking system in USG machines

In October 2012, the State Supervisory Board in its meeting decided to that Active tracker be installed at USG equipment to report every diagnostic procedure conducted at USG centres. This was to ensure reporting online and tracking suspicious scans.

However, CAG Audit revealed that USG centres' machines did not have memory to save data for more than 24 hours. In absence of online tracking of USGs and lack of memory of the existing USG equipment beyond 24 hours, no effective tracking of USGs centres was being conducted in the State. As a result, in absence of tracking system and online reporting, the misuse of USG equipment during check-up of pregnancies could not be ruled out.

ix. No training of medical practitioners conducting Ultrasonography

According to PC&PNDT (Prohibition of Sex Selection) (Six Months Training) Rules, 2014, the existing registered medical practitioners who were conducting ultrasound procedure on the basis of one year experience or six months training under any radiologist were required to qualify competency based examination or to complete six months training from the accredited institutions for the purpose of renewal of registrations.

However, scrutiny revealed that the State Government neither notified any institute as accredited for imparting training nor conducted any examination in this regard. As such, 28 registered medical practitioners in the two out of 20 test-checked districts were conducting ultrasound on the basis of one year experience or six month training without undergoing the said competency examination or six months training under the rules.

x. Seized USG machines found missing

As per Rule 11(2) of PC-PNDT Rules, the seized objects, if it is not possible to remove, may be retained where they are found after taking a bond from the owner that the same would be produced before the court as and when required.

The CAG scrutiny revealed that 120 USG machines had been sealed for breach of the provisions of PC&PNDT Act, 1994 in the State by the end of March 2015. However, the whereabouts of these machines were not known to the department. During Joint Physical Inspection (JPI) conducted by Audit, one

sealed machine was found to have been sold in Bulandshahar district and in two other machines at Agra were found to have been removed from the centres, without any intimation to the department. The failure of the department in monitoring and tracking the sealed ultrasound machines may result in misuse of such machines for illegal and unauthorised purposes.

xi. Inadequate number of decoy operations

In June 2008, the State Supervisory Board recommended to send decoy cases to USG centres and to conduct sting operations at large scale in order to identify USG centres involved in sex determination for petty payments. Audit noticed that only 52 decoy operations were undertaken in 52 USG centres (one per cent) of 4,622 registered centres during 2010-15 in the State while 19 decoy operations had been done in the test checked districts during 2013-15.

This indicates that a negligible number of decoy operations were carried out to monitor that the centres were not engaged in illegal activities of sex determination. In absence of sting operations actions were not taken against defaulters conducting sex determination.

xii. Non-imposition of penalties

Section 20 of PC&PNDT Act provides that in case of a breach of the provisions of the Act or the Rules by USG centres, DAA may suspend their registration for such period as it may think fit or cancel their registration. While Section 23 and Section 25 provides for punishment.

Scrutiny of records of test checked districts revealed that the records were not maintained by USG centres in 936 (58 per cent) out of 1,652 USG centres registered in test-checked districts. However, neither any action was taken nor any penalty imposed (under sections 20, 23 and 25 of the Act) on the defaulting USG centres during 2010-15 except issuing show cause notices (under section 20 of the Act) to 221 centres out of 936 centres at default. Even the notices issued were not being followed to ensure compliance.

Failure to take action against any defaulting USG centre and impose penalties despite serious violation of provisions of PC&PNDT Act by such a large number of centres, indicates lax attitude adopted by the district administration with regard to the implementation of PC&PNDT Act.

xiii. Lack of regular meetings by authorities

In August 2004, a State Supervisory Board (SSB) was constituted in Uttar Pradesh. The SSB was to meet at least once in four months to create public awareness; to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them; to monitor the implementation of provisions of the Act and the Rules and any other functions as may be prescribed under the Act.

However, scrutiny revealed that only five meetings (33 per cent) had been held against required 15 meetings during 2010-15. It was also noticed that most of the recommendations that analysis of Form F (patient details, purpose of investigation etc.), regular inspections, tracking of pregnancies, providing toll free lines for registration of complaints, online filing of Form E, analysis of monthly reports received from USG centres, centres breaching provisions of Act to be sealed and legal action initiated etc, made by SSB were not implemented.

The State Advisory Committee (SAC) and District Advisory Committee (DAC) were constituted in July 2006. The SAC and DAC were to meet once in 60 days.

However, scrutiny revealed that SAC met only five times against the required 30 meetings during 2010-15. While only 943 DAC level meetings (42 per cent) were conducted in the State during 2010-15 against the required 2250 meetings.

The CAG noted that on one hand SSB, SAC and DACs did not meet regularly and on the other, they did not ensure proper follow up action on the decisions taken and directions given by them. This rendered the entire system of monitoring, created under the provisions of the PC-PNDT Act, ineffective and largely dysfunctional.

xiii. Insufficient inspections

In February 2009, the State Government constituted a State Inspection and Monitoring Committee (SIMC) headed by Joint Director Family Welfare under the provisions of PC&PNDT Act, 1994 to undertake field visits and conduct monitoring and inspections of USG centres for effective implementation of PC&PNDT Act.

Scrutiny revealed that budgetary provisions of Rs. 7.30 lakh were made during 2010-15 to conduct 53 random inspections in worst districts of the State in

term of sex ratio, against which only 17 inspections were carried out. Thus, on an average only zero to nine inspections were carried out every year by SIMC in the State having 75 districts and 4,622 registered USG centres.

Therefore, the scrutiny indicates that the State Inspection and Monitoring Committee did not conduct adequate inspections of USG centres and failed to discharge their responsibility to monitor and ensure the proper implementation of PC&PNDT Act.

5.2 Status of implementation of the PC&PNDT Act in CSR critical States

According to the 2011 Census, 14 States/UTs have CSR (0-6 years) lower than national average of 919. These include (1) Haryana (834); (2) Punjab (846); (3) Jammu & Kashmir (862); (4) NCT of Delhi (871); (5) Chandigarh (880); (6) Rajasthan (888); (7) Uttarakhand (890); (8) Gujarat (890); (9) Maharashtra (894); (10) Uttar Pradesh (902); (11) Daman & Diu (904); (12) Himachal Pradesh (909); (13) Lakshadweep (911); and (14) Madhya Pradesh (918).¹¹⁹

The status of implementation of the PC&PNDT Act in these 14 States is given below.

No. 1 in low CSR: Haryana

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Haryana with lowest CSR in India had 1,624 bodies registered, 108 pending court cases, 54 convictions secured, nine (9) suspension /cancellation of medical licenses, and 241 machines seized/sealed under the PC&PNDT Act.¹²⁰

The Health Department of Haryana stated that as of September 2015, a total of 63 doctors were convicted out of 135 court cases filed under PC&PNDT Act in the State. The actions taken included removal of 10 doctors from the Register of State Medical Council of Haryana for five years, suspension of two doctors after conviction by court and suspension of four doctors from Register

119. Census 2011, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

120. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

of State Medical Council following framing of charges by the Courts. The Health Department of Haryana also claimed that it had conducted 22,336 inspections of registered centres/clinics leading to suspension/cancellation of 517 registrations and sealing of 330 centres/clinics.¹²¹

The State lacks legal expertise to follow up the cases registered under the PC&PNDT Act. The Supreme Court on 20 January 2015 in its comments on the implementation of the PC&PNDT Act in Haryana observed, “*We must record the submission of Anitha Shenoy, the counsel for Dr Sabu Mathew George, the intervener, that... there is no proper launching of prosecution and eventually conviction, as... there is lethargy on part of the competent authorities.*” *The Haryana affidavit, the Supreme Court held, “reflected that the authorities required to lodge the prosecution sometimes faced enormous difficulty, since they did not have proper assistance.”*

The Supreme Court also directed that unless there was an interdiction by it or the High Court, all related trials before the various Haryana courts must be finalised by June 2015. The judicial academy of the Punjab and Haryana High Court was asked to train the authorities tasked with initiating prosecution. The director of prosecution was directed to remain present in the academy to see that all officers were trained with sincerity. The Supreme Court also asked the state government to appoint a panel of competent lawyers who could help the appropriate authorities remove technical flaws in arguments. The director of prosecution and the judicial academy was further directed to lay adequate stress on training the officials in the districts where the sex ratio was dismal apart from conducting awareness camps by the State Legal Services Authority, which might constitute a separate cell for this kind of legal aid. The Supreme Court had asked the Chief Justice of Punjab and Haryana high court to fix a date for this training and get the registrar (judicial) to convey it to the chief secretary. The Supreme Court further stated that appropriate authorities would be liable for disciplinary proceedings if they failed to attend the training.¹²²

121. Health Department of Haryana, PNDT Note upto Sept, 2015, <http://haryanahealth.nic.in/menudesc.aspx?page=320>

122. State lacks legal expertise for fighting PNDT cases, Hindustan Times, 28 January 2015, <http://www.hindustantimes.com/punjab/state-lacks-legal-expertise-for-fighting-pndt-cases/story-OIYz0IYCKtryC0HcSs9UUM.html>

No. 2 in low CSR: Punjab

According to Census 2011 data, Child Sex Ratio (0-6 yrs) in Punjab witnessed an increase of 48 points from 798 (2001) to 846 (2011). Yet, Punjab remained No.2 in low CSR in India.

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Punjab had 1396 Genetic Counseling Centre/ Genetic Clinic/Genetic Laboratory etc registered, 127 pending court cases, 28 convictions secured and 4 cases of suspension/cancellation of medical licenses under the PC&PNDT Act. However, no machine was seized/sealed.¹²³

The Health Department of Punjab further claimed that as on 16 September 2015, a total of 811 suspensions and 102 cancellations of registration of ultrasound centres were recorded and 143 cases/complaints were filed in the Courts/Police Stations etc for violation of the PC&PNDT Act. Out of the cases filed, 90 cases disposed off, 31 cases resulted in conviction and 22 cases were pending in district courts.¹²⁴

No. 3 in low CSR: Jammu and Kashmir

The child-sex ratio has worsened in Jammu and Kashmir. From CSR of 941 in 2001, it went down to 862 in 2011 as per census reports. The State Government of Jammu and Kashmir enacted the Jammu and Kashmir Preconception and Prenatal Sex Selection/Determination (Prohibition and Regulation) Act, 2002. Jammu and Kashmir had witnessed highest fall of 79 points of child sex ratio.

As of July 2014, as per the State Government of Jammu and Kashmir, 336 health institutions were registered, registration of 4 ultrasound clinics were cancelled, 73 USG machines were seized, 3 persons were arrested and one was convicted, and 4 unregistered machines were confiscated under the PC&PNDT Act.¹²⁵

123. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

124. PUNJAB - Update on the implementation of PC & PNDT Act, <http://pbhealth.gov.in/Note%20on%20enforcement%20of%20PC-PNDT%20Act%20in%20english.pdf>

125. See jknrm.com/PDF/lecture.pptx

No. 4 in low CSR: Delhi

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014 the NCT of Delhi reported registration of 1,794 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc, 62 pending court cases, one conviction secured and suspension/cancellation of medical licenses of two doctors under the PC&PNDT Act. However, no machine was seized/sealed under the PC&PNDT Act.¹²⁶ The State Government further reported that a total of 84 court cases were filed in various courts since the inception of the PC&PNDT Act till March 2015 and 51 of these cases were pending.¹²⁷ In seven cases conviction was secured as per the information shared by the Department of Family Welfare, Government of NCT of Delhi during a dialogue with Health Minister in August 2015 at Delhi Secretariat.¹²⁸

On 15 April 2015, the Supreme Court in the case of *Voluntary Health Association of Punjab v. Union of India* noted that only 44 cases were instituted and certain cases were pending in various courts in Delhi since 2002. Expressing concern, the Supreme Court directed as under:¹²⁹

“The cases under this Act have to be given priority, for litigations under the 1994 Act should be put to an end at the earliest, regard being had to the fact that the object and purpose of the Act is for the prohibition of the misuse of pre-natal diagnostic techniques for the determination of sex and leading to female foeticide and prohibition of advertisement of pre-natal diagnostic techniques for determination sex, etc. Needless to say, if the criminal cases are kept pending, it will give an impression that the provisions of the Act are not taken seriously. Keeping in view the same, all the trial Magistrates before whom the prosecution under the 1994 Act are pending shall finalize the same by 30th September 2015. A copy of this order be sent to learned Chief Justice of Delhi to issue a circular to all the District and Sessions Judges of Delhi so that they can, in their turn, circulate amongst the concerned Magistrates to proceed accordingly. The

126. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

127. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

128. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

129. Writ Petition(s)(Civil) No(s). 349/2006, order issued on 15.04.2015, http://supremecourtindia.nic.in/FileServer/2015-04-15_1429101395.pdf

prosecution shall fully cooperate in the early disposal of these cases. There should not be laxity on the part of the public prosecutors.”

No. 5 in low CSR: Chandigarh

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Chandigarh 110 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered and two court cases were pending under the PC&PNDT Act. However, no conviction was secured, no medical license was suspended /cancelled and no machine was seized/sealed under the PC&PNDT Act.¹³⁰

No. 6 in low CSR: Rajasthan

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, status of implementation of the PC&PNDT Act in Rajasthan is as follows: 2292 registered Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc, 595 pending court cases, 37 convictions, 21 suspension / cancellation of medical licenses, and 402 machines seized/sealed.¹³¹

In the Quarterly Report submitted to the Ministry of Health and Family Welfare, Government of India, Rajasthan government claimed that a total of 2,446 facilities were registered in Rajasthan as on 30 September 2015. Further, a total of 570 suspensions or cancellation of registration were recorded under Section 20 of the PC&PNDT Act. A total of 426 ultrasound machines/images scanners were seized and sealed. It further claimed that a total of 621 complaints were filed in courts including 15 cases for non-registration, 548 for non-maintenance of records, and 58 for communication of sex of foetus. Out of the total 621 cases, 23 complaints were against person/supplier etc for sale of ultra sound machines. The State Government further claimed that a total of 110 court cases resulted in conviction and a total of 21 registrations of doctors were suspended by the Rajasthan Medical Council.¹³²

130. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

131. Ibid

132. Quarterly report of September, 2015 related to Implementation of PC&PNDT Act, 1994 submitted to Ministry of Health & Family Welfare, Govt. of India by Director (RCH), Medical & Health Services, Rajasthan, vide letter No. State PC&PNDT Cell/Quarterly/2015/1319 dated 29.10.2015 <http://www.rajswasthya.nic.in/1319%20Dt.%2029.10.2015%20Website.pdf>

Among the districts, 51 cases were filed against violators in Sri Ganganagar district, followed by Jaipur-I (42 cases), Udaipur (39 cases), Hanumangarh (34), Sirohi and Kota (32 each), Baran (29), Barmer (24), Jaipur-II and Jhalawar (22 each), Bundi (18), Dausa and Jhunjhunu (15 each) and Jalore (14).

No. 7 in low CSR: Uttarakhand

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Uttarakhand 548 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered, 31 cases filed before courts and 9 machines were seized/sealed under the PC&PNDT Act. However, no conviction was secured and no medical license was suspended/cancelled.¹³³

However, as per quarterly report ending March 2016 submitted to the Ministry of Health and Family Welfare, Government of India, Uttarakhand informed that 546 Ultrasound Clinics/Imaging Centres were registered, 176 registration of ultrasound clinics/imaging centres were suspended/cancelled while a total of 14 cases were filed in courts of which 10 cases were pending disposal at the end of March 2016.¹³⁴ There is discrepancy in the number of cases registered as per the reports submitted.

No. 8 in low CSR: Gujarat

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Gujarat had registered 4,504 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc and 126 cases were pending before the courts. Conviction was secured in six cases, one medical license was suspended / cancelled and three machines were seized/ sealed under the PC&PNDT Act.¹³⁵

According to data shared by the Department of Health and Family Welfare, Gujarat during the Regional Workshop held in Jaipur in September 2015, a total of 349 court cases were filed in various courts in Gujarat under the PC&PNDT Act. Out of the total, 187 cases were disposed off with conviction resulting only

133. See *Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015* Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

134. See 'Quarterly Report' at http://www.ukhfw.org/details.php?pgID=mn_2571

135. See *Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015* Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

in 9 (nine) cases while 178 cases resulted in acquittal. About 162 cases were pending in various courts of Gujarat.¹³⁶

No. 9 in low CSR: Maharashtra

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Maharashtra 9,052 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered, 496 court cases were pending, conviction was secured in 61 cases, 59 medical licenses were suspended/cancelled and 709 machines were seized/sealed under the PC&PNDT Act.¹³⁷

The State Government of Maharashtra claimed that it had filed a total of 556 cases against doctors under PC&PNDT Act as on 14 June 2016. Of the 556 cases, 79 doctors were convicted by lower courts, 167 were acquitted and 306 cases were pending in various courts.¹³⁸

As of September 2015, a total of 147 cases were submitted to different medical councils by the State Appropriate Authority against doctors facing conviction and charges under PC&PNDT Act. The Maharashtra Medical Council had suspended the registration of 48 doctors and removed the name of one doctor from the medical register.¹³⁹

No. 10 in low CSR: Uttar Pradesh

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Uttar Pradesh, 5,300 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered, 137 court cases were pending, conviction was secured only in one case and only 34 machines were seized/sealed under the PC&PNDT Act. However, no medical license was suspended/ cancelled.¹⁴⁰

136. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

137. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

138. PC-PNDT Act: Few takers for state's informer incentive scheme, fewer complaints, The Indian Express, 14 June 2016, <http://indianexpress.com/article/india/india-news-india/pc-pndt-act-few-takers-for-states-informer-incentive-scheme-fewer-complaints-2851185/>

139. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

140. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

The State Government of Uttar Pradesh further stated that a total of 176 cases were filed in various courts in Uttar Pradesh from 2002 to 2015 (till 27 November). These included 17 cases in 2002, nil in 2003, 1 in 2004, 1 in 2005, 4 in 2006, 3 in 2007, 10 in 2008, 1 in 2009, 2 in 2010, 3 in 2011, 13 in 2012, 68 in 2013, 23 in 2014 and 30 in 2015 (till 27 November). Out of the total 176 cases, 32 cases were disposed of and conviction was secured only in 8 cases namely 1 in Bijnaur, 1 in Muzaffarnagar, 1 in Kaushambi, 2 in Maharajganj, 1 in Siddharth Nagar, 1 in Bahraich, and 1 in Moradabad.¹⁴¹

The year wise details of the cases filed are given in the table below:¹⁴²

Table 6: Year wise details of the cases filed in Uttar Pradesh

Sl. No.	Year	No. Cases
1	2002	17
2	2003	0
3	2004	1
4	2005	1
5	2006	4
6	2007	3
7	2008	10
8	2009	1
9	2010	2
10	2011	3
11	2012	13
12	2013	68
13	2014	23
14	2015 (Till 27 Nov)	30
TOTAL		176

141. <http://www.pyaribitiya.in/Dynamic/NewsList.aspx>

142. Ibid

No. 11 in low CSR: Daman and Diu

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Daman & Diu 12 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered. However, no court cases were registered, no medical license was suspended and no machine was seized /sealed under the PC&PNDT Act.¹⁴³

No. 12 in low CSR: Himachal Pradesh

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Himachal Pradesh had registered 261 bodies. It had secured conviction in one case but no medical license was suspended/cancelled. Further, no machine was seized or sealed under the PC&PNDT Act.¹⁴⁴ Two cases were pending in Kullu and Shimla districts respectively.¹⁴⁵

No. 13 in low CSR: Lakshadweep

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Lakshadweep 18 Genetic Counseling Centre/Genetic Clinic/Genetic Laboratory etc were registered. However, no case was ever registered nor was any medical license suspended/cancelled. Neither was there any seizure/sealing of machines under the PC&PNDT Act.¹⁴⁶

No. 14 in low CSR: Madhya Pradesh

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Madhya Pradesh, 1,459 bodies were registered, 15 court cases were pending, two convictions were secured, two medical licenses were suspended/cancelled and 13 machines were sealed/seized under the PC&PNDT Act.¹⁴⁷

143. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

144. Ibid

145. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

146. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

147. Ibid

On 15 September 2015, the Directorate of Public Health Services, Madhya Pradesh informed during the Regional Workshop organised by the State Institute of Health and Family Welfare in Rajasthan that a total of 43 court cases were filed in different districts of Madhya Pradesh since the inception of the PC&PNDT Act. Of these cases, 41 were pending, one resulted in conviction and one case was dismissed.¹⁴⁸

5.3 The impact of the PC&PNDT Act

The PC&PNDT Act was enacted to address the diagnostic technology for sex selection and sex selection.¹⁴⁹ The question is whether the PC&PNDT Act had any deterrent impact.

This could be measured from the falling CSR in India as given below:

Table 7: Trend of declining Child Sex Ratio in India (1951 to 2011)¹⁵⁰

Year	CSR (0-6 years)	Decadal change
1951	983	
1961	976	-7
1971	964	-12
1981	962	-2
1991	945	-17
2001	927	-18
2011	919	-9

A bare analysis shows that in terms of points, the fall in CSR was 7 points from 1951 to 1961, 12 points from 1961 to 1971, 2 points from 1971 to 1981, 17 points from 1981 to 1991, 18 points from 1991 to 2001 and 9 points from 2001 to 2011.

148. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

149. Amniocentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in foetuses. Please see <http://wcd.nic.in/Schemes/research/savegirlchild/3.pdf>

150. Census of India publications, 1961, 1971, 1981, 1991, 2001, available at <http://iasir.net/AIJRHASSpapers/AIJRHASS14-203.pdf> and 2011 census <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

The use of technology to detect sex of the foetuses started in late 1970s, picked up by 1980s and the movement against sex selection started in Maharashtra by mid 1980s and the PNDT Act was enacted in 1994 and came into force from 1996.

The highest fall in the CSR was recorded from 1981 to 1991 (17 points) and 1991-2001 (18 points) confirm beyond any reasonable doubt about the misuse of technology for sex selection. Once the PC&PNDT Act was made a bit more stringent in 2002, it appears to have had some deterrent effect and the CSR from 2001 to 2011 fell only by 9 points. Indeed, without the PC&PNDT Act, sex ratio at birth and child sex ratio in India would have further drastically reduced.

As per the statement of the Government of India before the parliament, since the PC&PNDT Act came into force in 1994 to September 2014, the number of pending court and police cases was 2,021 while number of convictions was 206.¹⁵¹ However, following the monitoring of the Supreme Court, implementation marginally improved. As per Quarterly Progress Reports submitted by States/UTs, a total of 2,152 court cases had been filed by various State Appropriate Authorities and 306 convictions had been secured under the PC&PNDT Act as of 15 March 2016.¹⁵² This indicates that a total of 131 cases were filed in about 18 months and 100 convictions were secured, showing an improvement following specific directions of the Supreme Court of India in the *VHAI Punjab vs. Union of India* case.

151. See *Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015* Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

152. Written reply in Rajya Sabha by J. P. Nadda, Minister of Health and Family Welfare, Government of India on 15.03.2016 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137946>

6. PC&PNDT AMENDMENT BILL, 2016

6.1. Background for amendments to the PC&PNDT Act

On 20 July 2012, the Central Supervisory Board (CSB) during its 19th meeting felt the need to evaluate the provisions of the PC&PNDT Act and the rules and directed the constitution of an expert committee with an objective to strengthen the implementation of the Act and to regulate the misuse of medical diagnostic technologies leading to female foeticide. The Committee, among others, was asked to examine the issue of graded punishment.¹⁵³

In order to improve implementation of the PC&PNDT Act, in 2012, the Government of India amended Rule 3 of the Pre Natal Diagnostic (Techniques (Prohibition of Sex Selection) Rules, 1996. In 2014, the Government of India further brought the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014, known as Six Months Training Rules, on 9th January, 2014 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 on 31st January 2014 relating to “Form F” and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 relating to conduct for Advisory Committees.

Since these amendments and directions of the Supreme Court in *VHAI Punjab* case, the medical lobby and the radiologists have been up against the PC&PNDT Act and putting pressure on the Ministry of Health and Family Welfare. Further in 2014, Mumbai High Court in a number of judgments refused to interfere with the orders of Appropriate Authorities pertaining to cancellation or suspension of registration in Maharashtra such as *Dr. Radhakrishna v. the State of Maharashtra*¹⁵⁴, *Dr. Vijaymala v. the State of Maharashtra*¹⁵⁵, *Dr. Vinayak v. the State of Maharashtra*¹⁵⁶, *Dr. Ravindra v. the State of Maharashtra*¹⁵⁷,

153. Minutes of the 19th meeting of CSB meeting dated 20 July 2012 <http://www.mohfw.nic.in/WriteReadData/c08032016/19th.pdf>

154. Dr. Radhakrishna vs The State of Maharashtra

155. Criminal Writ Petition No.21 of 2013, Bombay High Court, Judgment delivered on 9 May 2014

156. Criminal Writ Petition No. 5 of 2013, Bombay High Court, Judgment delivered on 9 May 2014

157. Dr. Ravindra vs The State of Maharashtra, Bombay High Court, 9 May 2014

Faijan Multi Speciality Hospital v. the State of Maharashtra,¹⁵⁸ *Dr. Dattatraya v. the State of Maharashtra*,¹⁵⁹ *Dr. Sau Nirmala w/o Ramprasad Bajaj v. the State of Maharashtra*.¹⁶⁰ The opposition to the Act further gained momentum with the conviction and sentencing of a radiologist from Pune, Maharashtra to one year imprisonment for failing to maintain records as per the PC&PNDT Act in December 2015.¹⁶¹ The radiologists had urged that clerical errors committed during their job like writing wrong names of the patients, incomplete forms, lack of signature are 'equated' with sex-determination.

The contentions of the medical lobby are discussed below:

i. Purported clerical errors in Form F

Section 4 and Section 29 of the PC&PNDT Act and Rule 9(4)¹⁶² deals with records with respect to patients subjected to diagnostic procedure must be maintained by USG centres in Form F. Contravention of the same is punishable under Section 23(1) of the PC&PNDT Act for imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees. If the Form F is found incomplete the ultrasonography machines are also seized.¹⁶³

Radiologists have been complaining that they are being harassed and facing criminal cases over minor clerical errors in filing Form F and other procedural lapses. They argue that clerical errors such as writing wrong names of the patients, incomplete forms, lack of signature are 'equated' with sex-determination. They claim that mistakes are made by clerical staff and not by the doctors.

The Government of India simplified the Form F to address the concerns of the doctors. On 31 January 2014, the Government of India notified the revised

158. *Faijan Multi Speciality Hospital vs The State of Maharashtra*, Bombay High Court, 9 May 2014

159. *Dr. Dattatraya vs The State Of Maharashtra* on 9 May, 2014 available at <https://indiankanoon.org/doc/146912044/>

160. *Dr. Sau. Nirmala w/o Ramprasad Bajaj v. The State of Maharashtra* (Criminal Application No. 3966 of 2013, Bombay High Court, Decided on 9 May 2014

161. Centre can dilute PCPNDT Act, *The Times of India*, 15 December 2015, <http://timesofindia.indiatimes.com/city/pune/Centre-can-dilute-PCPNDT-Act/articleshow/50182061.cms>

162. Rule 9(4) provides that 'The record to be maintained by every Genetic Clinic, in respect of each woman subjected to any pre-natal diagnostic procedure, shall be as specified in Form F'

163. See <http://www.health.mp.gov.in/pcpndt/gazette/PC%20%20PNDT%20Rules%202014%20Form%20F.pdf>

Form F which captures detailed information like the name, address, previous children with their sex, previous obstetric history related to the pregnant woman undergoing ultrasound scan.¹⁶⁴ The revised Form F is divided into four sections and simpler to understand. The previous form contained columns of all types, invasive (for example amniocentesis) as well as non-invasive (for example sonography) diagnostic tests and procedures and gave rise to ambiguity at various points. While the modified version has separate sections for invasive and non-invasive test and the doctor has to fill only the applicable sections. Only section A and section D have to be compulsorily filled by doctors. Section A records information like name and complete address of genetic clinic/ultrasound clinic/imaging centre, registration number under the PC&PNDT Act, patient's name, age, total number of living children, postal address, referral doctor's name. Section D contains declaration of the person undergoing prenatal diagnostic test/procedure not to know the sex of the foetus and declaration of the doctor/person conducting the test/procedure not to detect or disclose the sex of the foetus.¹⁶⁵

It is pertinent to mention that on 30 September 2008, the Full Bench of the Gujarat High Court in *Suo Motu v. State of Gujarat* settled the issue whether any deficiency or inaccuracy in filling Form F as required under the statutory provisions is merely a procedural lapse or not by ruling that “*Deficiency or inaccuracy in filling Form F prescribed under Rule 9 of the Rules made under the PNDT Act, being a deficiency or inaccuracy in keeping record in the prescribed manner, it is not a procedural lapse but an independent offence amounting to contravention of the provisions of section 5 or 6 of the PNDT Act and has to be treated and tried accordingly. It does not, however, mean that each inaccuracy or deficiency in maintaining the requisite record may be as serious as violation of the provisions of section 5 or 6 of the Act and the Court would be justified, while imposing punishment upon conviction, in taking a lenient view in cases of only technical, formal or insignificant lapses in filling up the forms. For example, not maintaining the record of conducting ultrasonography on a pregnant woman at all or filling up incorrect particulars may be taken in all seriousness as if the provisions of section 5 or 6 were violated, but incomplete details of the full name and address of the pregnant woman may be treated leniently if*

164. See the notification at <http://www.rajswasthya.nic.in/205%20Dt.%2011.03.2014%20PNDT%20Website.pdf>

165. Form 'F' for ultrasound scans becomes simpler, The Times of India, 20 August 2013, <http://timesofindia.indiatimes.com/city/pune/Form-F-for-ultrasound-scans-becomes-simpler/articleshow/21928044.cms>

her identity and address were otherwise mentioned in a manner sufficient to identify and trace her.”¹⁶⁶

Therefore, the demand of the medical lobby/radiologists is not reasonable and aimed at diluting the provisions of the PC&PNDT Act under the excuse of clerical errors.

ii. Graded punishment

The Indian Medical Association (IMA), Indian Radiological and Imaging Association (IRIA) and Federation of Obstetric and Gynecological Societies of India (FOGSI) demand amendments to Section 23, 25 and 4(3) of the PC&PNDT Act for graded punishment for minor clerical mistakes.¹⁶⁷

Section 23 of the existing PC&PNDT Act provides for offences and penalties with imprisonment up to three years and fine up to Rs. 10,000. For any subsequent offences, imprisonment up to five years and fine up to Rs. 50,000/1,00,000. The name of the Registered Medical Practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of. On conviction, the name of Registered Medical Practitioner is removed for a period of 5 years for the first offence and permanently for the subsequent offence.

Section 25 of the existing PC&PNDT provides for penalty for ‘contravention of any provision of the Act or rules for which no specific punishment is provided’ with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Section 4(3) of the PC&PNDT Act requires a person conducting such techniques such as ultrasound sonography on pregnant women to keep a complete record in the manner prescribed in the Rules with the proviso that

166. 2008 (1) GLH 475

167. See Minutes of the meeting of the Expert Committee on proposed amendment to the PCPNDT Act held on 4 July 2016 available at: <http://module.ima-india.org/PNDT27july2016.pdf>

the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of provisions of section 5 or section 6 unless contrary is proved by the person conducting such ultrasonography.

The IMA, IRIA, FOGSI etc stated that the doctors were being punished even for minor errors by equating those errors with sex determination and criminal offense under these provisions of the Act. Accordingly, they demanded that punishment under the Act should be graded in line with the offence.

In the proposed amendments to the Act, the Government has sought amendment in Section 23(1) by replacing the phrase “*who contravenes any of the provisions of this Act or Rules made thereunder*” with “*who indulges in or assists or aids Sex Determination/selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4*”. Further, the Government proposed to amend Section 23 by inserting Section 23(1)(A) prescribing monetary penalty for not wearing apron, displaying board declaring not doing sex selection and making available copy of the Act in the genetic clinic, USG centres.¹⁶⁸ The Government also proposed to amend Section 25 of the Act by imposing only fine as against three month punishment. The IMA and IRIA demand that any offence under Section 25 should not be a criminal offence.¹⁶⁹

However, no consensus could be arrived in the meeting dated 4 July 2016 of the Expert Committee on the proposed amendments to the PC&PNDT Act on these provisions of the Act.¹⁷⁰

iii De-notification of amended Rule 3 of PC&PNDT Amendment Rules, 2012

In a bid to curb sex determination test and female foeticide, the Government of India on 4 June 2012 amended Rule 3 of the Pre-conception and Pre Natal Diagnostic (Techniques (Prohibition of Sex Selection) Rules, 1996 through a

168. See <http://www.medicaldialogues.in/wp-content/uploads/2016/03/PNDT-Proposed-amendments.pdf>

169. See Minutes of the meeting of the Expert Committee on proposed amendment to the PCPNDT Act held on 4 July 2016 available at: <http://module.ima-india.org/PNDT27july2016.pdf>

170. See Minutes of the meeting of the Expert Committee on proposed amendment to the PCPNDT Act held on 4 July 2016 available at: <http://module.ima-india.org/PNDT27july2016.pdf>

Gazette Notification restricting radiologists and sonologists from visiting more than two clinics within a district to perform ultrasound and made it mandatory to specify their consulting hours at each clinic.¹⁷¹ On a public interest litigation filed by the Indian Radiological and Imaging Association (IRIA), the Delhi High Court stayed the order of restriction.¹⁷²

The IRIA demands that the Gazette notification dated 5 June 2012 regarding restriction on radiologists from visiting more than two ultrasound centres in a District/ intimation of change of radiologists and equipment one month in advance, should be de-notified or suitably amended. According to IRIA, many states still continue to follow the amended Rule 3 of the PC&PNDT Act because of which a dichotomy in its uniform implementation throughout the country has been created. It claimed that while radiologists in Delhi continue to practice freely at more than two places, radiologists in other states cannot do so. The matter was pending for hearing in the Supreme Court.¹⁷³

iv. Competency test: Six Months Training Rule 2014

On 9 January 2014, the Government of India notified the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014 by amending the PC&PNDT Rules, 1996. The amended Rule 3(3)(1)(b) prescribes the qualifications for setting up of or for employment in a genetic clinic /ultrasound clinic/imaging centre. The amended Rule requires a person possessing one of the medical qualifications recognised by MCI Act to undergo six months training as prescribed in the Six Months Training Rules or if having experience of one year in ultrasonography, to take the competency test, for operating and using the ultrasound machine.¹⁷⁴

The PC&PNDT Act, 1994, allows any MBBS-degree-holder to become sonologist without the basic qualification of MD in radio diagnosis and gynecology or additional training. The Six Months Training Rules 2014 prescribed six-month compulsory training. The sonologists who did not have

171. Notification is available at http://www.wbhealth.gov.in/download/Gazette%20Notification_medical%20Practitioner_USG%20Clinic.pdf

172. Radiologists can visit more than two clinics, Deccan Herald, 25 July 2012 <http://www.deccanherald.com/content/267094/radiologists-can-visit-more-two.html>

173. <http://www.indiamedicaltimes.com/2014/10/31/radiologists-up-in-arms-against-rule-that-curbs-their-diagnostic-practice/>

174. See http://164.100.130.11:8091/administrative/PC&PNDT_sixMonths_trainingRules.pdf

basic qualification were asked to clear the competency test before 31 December 2016 to be able to run their centres from 2017. In case they fail, they will have to undergo six-month training after being selected through postgraduate (PG) entrance test.¹⁷⁵

The sonologists oppose this compulsory competency test describing it as unreasonable and arbitrary.¹⁷⁶ The rules of 2014 have been challenged in various High Courts including in the Delhi High Court. The IMA had approached the Delhi High Court challenging the validity of notification requiring the competency based assessment. The petition alleged the notification was in violation of Section 32 of the PC&PNDT Act as it contains an additional requirement of one-year experience or 6 months training. On 17 February 2016, the Delhi High Court by an order had declared “*Rule 3(3)(1)(b) of the PNDT Rules (as it stands after the amendment with effect from 9th January, 2014) is ultra vires the PNDT Act to the extent it requires a person desirous of setting up a Genetic Clinic / Ultrasound Clinic/ Imaging Centre to undergo six months training imparted in the manner prescribed in the Six Months Training Rules.*”¹⁷⁷

On 3 August 2016, the Madras High Court ruled that provisions in PC&PNDT Act, which laid down post-graduate qualification for sonologists and imaging specialists and consequent rules, cannot come into force unless the Delhi High Court order is stayed by the Supreme Court. The High Court made the observation while disposing of a PIL challenging the move of the State Government of Tamil Nadu mandating six months training to MBBS doctors under the PC&PNDT (Six Months Training) Rules, 2014. The matter is currently pending for adjudication before the Supreme Court.¹⁷⁸

175. Sonologists don't want competency test, to move high court, Hindustan Times, 16 June 2016, <http://www.hindustantimes.com/punjab/sonologists-don-t-want-competency-test-to-move-high-court/story-OcCtof0YAYjKkHiuGBvcXN.html>

176. Sonologists don't want competency test, to move high court, Hindustan Times, 16 January 2016, <http://www.hindustantimes.com/punjab/sonologists-don-t-want-competency-test-to-move-high-court/story-OcCtof0YAYjKkHiuGBvcXN.html>

177. W.P.(C) Nos.6968/2011, 2721/2014 & 3184/2014, Delhi High Court, 17 February 2016, <http://emedinews.in/2016/daily/feb/18/Attach.pdf>

178. PC-PNDT Act clauses cannot come in force till Delhi HC order, Business Standard, 3 August 2016, http://www.business-standard.com/article/pti-stories/pc-pndt-act-clauses-cannot-come-in-force-till-delhi-hc-order-116080301888_1.html

6.2. Falsity of the claims by medical lobby: Sex determination tests galore

The falsity of the claims of medical lobby stands exposed from increasing reports of arrests of doctors and cases filed for conducting illegal sex determination tests. Some of the cases documented by Asian Center for human Rights are given below:

In September 2016, Dr Anil Bansal, a general physician was arrested for conducting sex determination tests in his private clinic in Greenwood City in Sector 45, Gurgaon, Haryana. Following a tip-off, a team of officials caught the doctor taking Rs 30,000 from a pregnant woman for sex determination test. The doctor was booked under the PC&PNDT Act and the portable ultrasound machine in his clinic was sealed.¹⁷⁹

In July 2016, a gynecologist identified as Dr. Neelam Walia and a general physician, Dr KS Walia, of Walia Maternal and Health Centre in Sarita Vihar, Delhi were arrested after they were caught conducting sex determination on a decoy patient during a sting operation. Authorities who conducted the sting operation sent a decoy customer to a tout, who took the decoy patient to Walia Medical and Health Centre where ultrasound was performed by the gynecologist Dr Neelam Walia, where the patient was informed about the sex of the fetus.¹⁸⁰

On 17 July 2016, a Doctor identified as Jitendra Kumar Shukla from Gujarat and Nirmala Kumari, an auxiliary nurse midwife (ANM), were arrested for carrying out sex determination test in Jaipur, Rajasthan. The accused, who were arrested during a raid by the Health Department, were booked under the PC&PNDT Act.¹⁸¹

On 19 April 2016, a woman doctor was arrested under PC&PNDT Act following a decoy operation conducted by a detective agency hired by the department of health and family welfare, Punjab in Amritsar. The accused doctor identified as

179. Doctor arrested for sex determination test, The Times of India, 13 September 2016, <http://timesofindia.indiatimes.com/city/gurgaon/doctor-arrested-for-sex-determination-test/articleshow/54300697.cms?from=mdr>

180. PC-PNDT Crimes: Sarita Vihar Gynaecologist arrested in Delhi for sex determination, 13 July 2016, see <http://medicaldialogues.in/pc-pndt-crimes-gynaecologist-arrested-in-capital-for-sex-determination/>

181. Rajasthan: Doctor, nurse arrested for carrying out sex determination test, One India, 20 July 2016, <http://www.oneindia.com/india/rajasthan-doctor-nurse-arrested-carrying-sex-determination-test-2157834.html>

Dr Shupla Sharma of Bharat Hospital in Chheharta took a sum of Rs. 15,000 from a decoy patient sent in the hospital.¹⁸²

On 22 April 2016, a case was registered against five doctors identified as Dr Ujagar Singh Suri (owner), Dr Bhushan, Dr Sunita, Dr Sandeep and Dr Gurinder Bagga of Suri Scan Centre in Balacharu in SBS Nagar district of Punjab for conducting illegal sex determination. A decoy customer was sent to the hospital who took Rs. 20,000/- from her for conducting the illegal test. The Scan Centre was also sealed following the decoy operation.¹⁸³

On 8 February 2016, a doctor was arrested after he was caught red-handed while conducting a pre-natal sex determination test during a decoy operation at MGS super-specialty hospital in Punjabi Bagh in Delhi. A team of doctors and officials from Jhajjar district, Haryana sent a decoy customer to Bahadurgarh as they had prior information about a tout, Akash, who was helping people in getting sex determination tests done. The tout took the woman to the MGS Hospital for the test. Six ultrasound machines were also sealed.¹⁸⁴

On 7 February 2016, a case was registered against four persons, including the owner of Bhatnagar Hospital, B M Bhatnagar, a gynaecologist, receptionist and the Lady Health Visitor (LHV) during a decoy operation at a private hospital in Gurgaon, Haryana. Acting on a tip-off, a team led by Gurgaon Deputy Commissioner took a decoy customer to a LHV at Primary Health Centre, Bhondsi, who allegedly demanded Rs 20,000 for getting an ultrasound done. After the money was paid, the LHV took the woman to Bhatnagar Hospital on Railway Road, Gurgaon, where a receptionist conducted the ultrasound on the foetus. The patient was not registered and Form-F, which is mandatory under the Act, was not filled prior to the test. An ultrasound machine was also sealed.¹⁸⁵

182. Woman doctor nabbed under PC-PNDT Act, The Times of India, 21 April 2016, <http://timesofindia.indiatimes.com/city/chandigarh/Woman-doctor-nabbed-under-PC-PNDT-Act/articleshow/51917406.cms>

183. FIR Lodged Against 5 Doctors Of Suri Scan Centre, Balachaur Under PC PNDT Act For Illegal Sex-Determination, 23 April 2016, see <http://www.cityairnews.com/content/fir-lodged-against-5-doctors-suri-scan-centre-balachaur-under-pc-pndt-act-illegal-sex>

184. Delhi doctor arrested for conducting sex determination test, FIR registered, India Today, 1 February 2016, <http://indiatoday.intoday.in/story/delhi-doctor-arrested-for-conduction-sex-determination-test-fir-registered/1/593011.html>

185. Sex determination racket busted in Gurgaon, Business Standard, 7 February 2016, http://www.business-standard.com/article/pti-stories/sex-determination-racket-busted-in-gurgaon-116020700710_1.html

On 4 January 2016, a woman doctor identified as Ila Sood was arrested and a case registered against her along with three touts for conducting illegal sex determination in Khanna, Punjab. The woman doctor runs Jeevan Eye and Maternity Hospital. A team of three doctors who conducted the raid recovered Rs 13,500 given for sex determination test by two touts inside the hospital. The test was conducted without entering the name of the patient in the hospital record to conceal the identity.¹⁸⁶

On 8 July 2015, a doctor identified as Shakeel and a middleman were arrested for allegedly conducting a sex determination test at a private ultrasound centre in Yamunanagar, Haryana. The doctor allegedly used to conduct sex determination tests at an ultrasound centre in Yamunanagar and Amit Kumar, who worked at a private clinic at Sarsawa in Uttar Pradesh, used to bring patients to him for tests. A decoy customer was sent to middleman, Amit Kumar who asked Rs. 10,000 to conduct sex determination test and for aborting the foetus. The decoy team also seized an unauthorised portable ultrasound machine, a laptop and other equipment.¹⁸⁷

On 11 July 2015, health department officers raided the Bhatia Nursing Home in Ganaur town of Sonipat district, Haryana and booked a doctor after he was caught red-handed while conducting an illegal sex determination test. Following a tip off, the doctor was trapped by the health officials by sending a pregnant woman as a decoy customer with currency notes bearing signatures. The doctor demanded Rs.10,000 for conducting the test and agreed to give the report on 12 July 2015. When the woman came out of the nursing home, the team conducted a raid and recovered the currency notes. The team also found various irregularities in the maintenance of records. The ultrasound machine at the Nursing Home was sealed and a case was also registered against the accused doctor for violating the PC&PNDT Act.¹⁸⁸

On 5 January 2015, Rajesh Goyal, a qualified doctor, was caught red-handed for carrying out foetal sex determination following a trap laid by the Sirsa Civil

186. Woman doctor arrested under PNDT Act, The Tribune, 5 January 2016, <http://www.tribuneindia.com/news/ludhiana/crime/woman-doctor-arrested-under-pndt-act/179476.html>

187. Doctor, middleman arrested for illegal sex determination, Press Trust of India, 8 July 2015 available at: <http://english.pradesh18.com/news/haryana/doctor-middleman-arrested-for-illegal-sex-determination-766517.html>

188. Doctor booked for sex determination test in Haryana, The Business Standard, 11 July 2015, http://www.business-standard.com/article/news-ians/doctor-booked-for-sex-determination-test-in-haryana-115071100787_1.html

Surgeon in Haryana. The doctor had clinics in Tohana in Fatehabad district of Haryana and Moonak in Sangrur district of Punjab where decoys were sent and trap was laid for the doctor. But after the accused doctor was handed over to the Moonak (in Punjab) Senior Medical Officer Dr Kuldeep Singh, he was let off on the ground that there was no provision of lodging an FIR against a qualified doctor whose ultrasound centre was registered with health authorities. The Punjab authorities only sealed the doctor's ultrasound machine at the clinic in Moonak in Sangrur district of Punjab.¹⁸⁹

On 28 June 2014, two doctors were arrested by the police after they were found conducting sex determination tests at Kanina in Mahendargarh district, Haryana and at Charkhi Dadri in Bhiwani district respectively and cases were registered against the doctors for violating the PC&PNDT Act. The Health Department sent a decoy customer who went along with a decoy patient to the Sanjivini Hospital, located at Ambedkar Chowk in Kanina in Mahendargarh district. A sex determination test was settled for Rs. 7,000 to ascertain the sex of the unborn child. A raid was conducted and doctors in the hospital were caught red-handed while conducting sex determination test.¹⁹⁰

On 17 January 2014, two doctors, including a woman, were arrested by police after health department officials found them conducting sex determination tests on pregnant women in Yamunanagar district, Haryana. Both the doctors, Nirmal Singh and Anu, escaped from their private hospital, Nirmal Hospital near Yamunanagar after health officials raided the premises following complaints that sex determination tests were being done on pregnant women to ascertain the sex of the unborn child. The police arrested the duo while trying to flee.¹⁹¹

In January 2014, two doctors were arrested for violation of the PC&PNDT Act in Haryana. Dr Pawan Kumar Singla, owner of Singla Nursing home, Gol Bazaar, Dabwali in Sirsa district was arrested for conducting sex determination test and an FIR was registered against him under PC&PNDT Act 1994. Several

189. Doc arrested for foetal sex test let off; medical officers spar, *The Tribune*, 6 January 2015, <http://www.tribuneindia.com/news/haryana/doc-arrested-for-foetal-sex-test-let-off-medical-officers-spar/26923.html>

190. Two Haryana doctors arrested for sex detection tests, *The Times of India*, 28 June 2014, <http://timesofindia.indiatimes.com/city/chandigarh/Two-Haryana-doctors-arrested-for-sex-detection-tests/articleshow/37401671.cms>

191. Haryana: 2 doctors arrested for sex determination test, *CNN-IBN*, 17 January 2014, <http://www.ibnlive.com/news/india/haryana-2-doctors-arrested-for-sex-determination-test-662512.html>

violations of PC&PNDT Act were detected during a raid by a team. Dr Singla was allegedly found conducting ultra-sonography test on expecting mothers. Violations detected at Singla Nursing home included incomplete records, unsigned referral slips, ultra sound reports and patients' register. The clinic was sealed under Sections 4, 5, 6 and 29 of PC&PNDT Act. Another FIR was registered against Dr Rang Rajan, owner of H-way hospital in Dharuhera in Rewari, for violation of PC&PNDT Act.¹⁹²

In the light of these cases of arrest, any such amendments to the PC&PNDT Act which favour the doctors would only weaken the Act and allow the medical professionals to continue profiteering from gender-based sex selection and escape criminal prosecution. Activists often state that the 'clerical errors' are deliberately done by hospitals and doctors with the intention to destroy evidence.

6.3. Is the Ministry of Health and Family Welfare addressing the concerns of the medical lobby?

In March 2016, the Ministry of Health and Family Welfare invited suggestions/ comments to the proposed amendments to the PC&PNDT Amendment Bill.¹⁹³ The proposed amendments include i) certain conditions and prohibitions on the sale of the ultrasound machines shall extend to any kind of 'transfer', which may/may not be constituted as sale; ii) divide violations under the Act into those which directly leads to sex determination to address them separately from other contraventions of the Act; iii) higher fine for indulging/ assisting/ aiding in sex determination are proposed; iv) abiding of certain prescribed norms such as wearing an apron with proper name plate while performing diagnostic procedure, putting up-sign board disclaiming Sex Selection at a prominent place in the clinic, copy of the PC&PNDT Act always to be present in the clinic with non compliance leading to fine; v) manufacturing companies to be treated as separate entities under the Act and to increase accountability of companies; vi) definition of a Medical Geneticist to be altered to define a medical geneticist as a person who has DM/ Doctor of Medicine (MD) in medical Genetics recognized by MCI or has worked/ done research for not less than five years in a recognized university or institute or has obtained a

192. Two more docs booked under PC-PNDT Act, The Hindustan Times, 7 January 2014, <http://www.hindustantimes.com/chandigarh/two-more-docs-booked-under-pc-pndt-act/story-28wvmL487vCpZPKql3fXoO.html>

193. See <http://www.medicaldialogues.in/wp-content/uploads/2016/03/PNDT-Proposed-amendments.pdf>

doctorate degree in the area of clinical or medical or human genetics; among others.¹⁹⁴

The Ministry of Health and Family Welfare states that the proposed amendments were meant to strengthen the implementation of the PC&PNDT Act and to regulate the misuse of medical diagnostic technologies leading to female foeticide.

However, a cursory scrutiny of the proposed amendments shows that the proposed amendments reflect the demands of the medical lobby and radiologists. The demands include (i) clerical errors in Form F/not wearing of apron/non display of notice board/not keeping hand book on the PC&PNDT Act should not be equated with sex determination and criminal offence; (ii) punishment should be graded; (iii) ultrasound machines should not be sealed and medical qualification should not be cancelled on minor clerical error; (iv) the Gazette notification dated 5th June 2012 regarding restriction on radiologists for visiting more than two ultrasound centre in a District/intimation of change of radiologists and equipment one month in advance should be de-notified or suitably amended; and (v) renewal of the PC&PNDT registration should not be denied until and unless case is proved in the court of law.¹⁹⁵

In the proposed amendments to the PC&PNDT Act, the Ministry of Health and Family Welfare suggested amendment of Section 23(1) by replacing the phrase *“who contravenes any of the provisions of this Act or Rules made thereunder”* with *“who indulges in or assists or aids Sex Determination/selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4”*.

The proposed amendment seeks to restrict the scope and operation of Section 23 (1) only to cases where the accused medical professional *“indulges in or assists or aids sex determination/selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4”* while the existing provision of Section 23 (1) covers contravention of *“any of the provisions of this Act or Rules made thereunder”*.

194. See <http://www.medicaldialogues.in/wp-content/uploads/2016/03/PNDT-Proposed-amendments.pdf>

195. Amend PC-PNDT Act or we go on strike: Radiologists to Nadda, 22 August 2016, see <http://medicaldialogues.in/amend-pc-pndt-act-or-we-go-on-strike-radiologists-to-nadda/>

In effect, the proposed amendment seeks to turn the burden of proof on the prosecutor in one hand and makes the standard of proof more stringent. Once the proposed amendment is allowed, the irregularities in record keeping as per form “F” which are part and parcel of sex selective tests would escape the rigours of the existing Section 23 as the prosecutors shall have to prove indulgence in or assistance or aiding sex determination/selection or for conducting pre-natal diagnostic techniques by the accused medical professionals or Diagnostic centers/clinics. It is widely known and accepted that medical professionals or Diagnostic centers/clinics when accused of conducting sex determination test including by suppression the facts prescribed to be recorded, they take the alibi of clerical errors. But entry of wrong or imaginary names of pregnant women and address cannot be treated as clerical errors.

The Ministry of Health and Family Welfare also proposed amendment of Section 23 by inserting a new clause, Section 23(1)(A) prescribing only monetary penalty for not wearing apron, displaying board declaring not conducting sex selection and making available copy of the Act in the genetic clinic & USG centres.¹⁹⁶The proposed amendment reads as under: “Any person who shall not abide by the following prescribed norms including:

- (a) Wearing apron with proper name plate while performing diagnostic procedure,
- (b) Putting up sign-board disclaiming sex selection at a prominent place in the clinic.
- (c) Copy of the PNDT Act always present in the clinic

shall be punished with a fine of not less than one thousand rupees and in case of continuing contravention with an additional fine of not less than five hundred rupees for everyday”

The proposed insertion of Section 23(1)(A) seeks to exclude operation of Section 25 in cases of not wearing apron with proper name plate while performing diagnostic procedure, not putting up sign-board disclaiming sex selection and keeping copy of the PCPNDT Act by the medical professions and the Diagnostic centers/clinics. Once the new provision comes into force, the concerned medical

196. Ibid

professions and the Diagnostic centers/clinics guilty of not wearing apron with proper name plate while performing diagnostic procedure, not putting up sign-board disclaiming sex selection and keeping copy of the PCPNDT Act cannot be prosecuted under the existing Section 25. More importantly, the new provision takes away the penalty of “imprisonment for a term which may extend to three months” and replaces it with only maximum fine of rupees ten thousand. Therefore, the demands of the IMA and IRIA that any offence under Section 25 should not be a criminal offence have been effectively addressed.¹⁹⁷

197. See Minutes of the meeting of the Expert Committee on proposed amendment to the PCPNDT Act held on 4 July 2016 available at: <http://module.ima-india.org/PNDT27july2016.pdf>

7. THE WAY FORWARD: STRICTLY ENFORCE THE PC&PNDT ACT AND REJECT THE 2016 PROPOSED AMENDMENTS

7.1. The reality of falling CSR

The falling CSR is a stark reality and the CSR is all set to fall further from 919 as per 2011 census.¹⁹⁸

According to Sample Registration System *Statistical Report-2013*¹⁹⁹, the Sex Ratio at Birth (SRB) in the age group 0-4 for the country for the period 2011-2013 (3-years average) was estimated at 909. If under-five mortality rate of 48 deaths per 1,000 births in India²⁰⁰ is taken into account, the child sex ratio during 2011-2013 will be about 886²⁰¹ girls per thousand boys which is drastic fall from CSR of 919 during 2011 census.

Table 7: Comparison of Sex Ratio at Birth and Child Sex Ratio

State	SRB (2011-2013) ³	CSR of 0-6 years (2011) ⁴
Haryana	864	834
Punjab	867	846
Uttar Pradesh	878	902
Delhi	887	871
Rajasthan	893	888
Jammu and Kashmir	902	862
Maharashtra	902	894

198. See the Statement of Shri Ghulam Nabi Azad, then Union Minister for Health and Family Welfare in a written reply to the Rajya Sabha on 11.02.2014 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

199. The SRS Statistical Report 2013 of the Census of India, Government of India is available at http://www.censusindia.gov.in/vital_statistics/SRS_Reports_2013.html

200. 20% of world's under-5 deaths occur in India, The Times of India, 9 September 2015 available at <http://timesofindia.indiatimes.com/india/20-of-worlds-under-5-deaths-occur-in-India/articleshow/48878224.cms>

201. As per WHO estimate of natural sex ratio of 105 males for every 100 females, for 48 death, the number of male death will be 25 and the number of female will be 23

State	SRB (2011-2013) ³	CSR of 0-6 years (2011) ⁴
Gujarat	911	890
Bihar	911	
Jharkhand	913	
Andhra Pradesh	916	
Assam	920	
Madhya Pradesh	920	918
Tamil Nadu	927	
Himachal Pradesh	943	909
West Bengal	943	

7.2 The way forward: enforce the PC&PNDT Act

There is no doubt that the PC&PNDT Act had some deterrent effects though because of its non-enforcement desired impact could not be achieved. This calls for strict enforcement of the PC&PNDT Act.

There is no doubt that the PC&PNDT Act has serious flaws. This includes lack of respect for the one of the cardinal principles of administration of criminal justice is the proportionality in criminal punishment. In *Alister Anthony Pereira vs. State of Maharashtra*,²⁰² the Supreme Court of India held that “*Sentencing policy is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing and accused on proof of crime. The courts have evolved certain principles: twin objectives of the sentencing policy are deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between*

202 . AIR 2012 SC 3802

crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence.” The PC & PNDT Act makes no distinction between punishment for sex selection leading to female foeticide and other offences under the Act or Rule such as non-maintenance of Form F, non-registration, non-maintenance of records etc but which do not necessarily lead to abortion of the identified foetus.

There is indeed no national experience on the implementation of the PC&PNDT Act except ineffectiveness of the Act to warrant further amendments at this stage. As of September 2014, 14 States/UTs i.e. Arunachal Pradesh, Himachal Pradesh, Kerala, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Andaman & Nicobar Island, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry²⁰³ had not filed a single case under the PC&PNDT Act since 1994 despite all these States having districts targeted under the *Beti Bachao Beti Padao*, the flagship programme launched by the Prime Minister of India to arrest the falling CSR. Further, during the same period, no conviction was secured in Andhra Pradesh, Chhattisgarh, Goa, Jharkhand, Karnataka, Tamil Nadu, Uttarakhand and West Bengal and Union Territories of Chandigarh.²⁰⁴ There is indeed no case for amendments of the PC&PNDT Act as being proposed by the Ministry of Health and Family Welfare.

If proposed amendments to the PC&PNDT Act proposed by the Government are enacted, it shall mean that Form F will not be complied, wearing of apron/ display of notice board on the PC&PNDT Act, keeping hand book on the PC&PNDT Act will not have to be maintained as the violators can get away with mere fines. If no records are maintained, it means no prosecution can take place.

If sex selection through use of technology is to be countered and the PC&PNDT Act were to act as the deterrent to prevent further fall in the CSR, there is no doubt that sentencing should be based on gravity of the offences. This means non maintenance of records as per Form F, not wearing of apron/ display of

203. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

204. Ibid

notice board on the PC&PNDT Act, keeping hand book on the PC&PNDT Act shall have to be treated as criminal offences punishable with three months imprisonment while ultrasound machines and medical licenses shall be seized or cancelled. Further, punishment for sex selection leading to female foeticide under Sub-Section (1) of Section 23 and Section 25 of the PC&PNDT Act shall have to be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both as provided under Section 315 and Section 316 of the Indian Penal Code. Similarly, the contravention of the Act or any rules will have to act as financially disincentive.

ANNEX 1. PC&PNDT ACT

Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994

THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) ACT, 1994

(ACT NO. 57 OF 1994)

AND

THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) AMENDMENT ACT, 2002
(No.14 OF 2003)

[20th September, 1994]

An Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide; and, for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. **Short title, extent and commencement.**- (1) This Act may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.
 - (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
 - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. **Definitions.**- In this Act, unless the context otherwise requires,—
 - (a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;
 - (b) "Board" means the Central Supervisory Board constituted under section 7;
 - (ba) "conceptus" means any product of conception at any stage of development from fertilization until birth including extra embryonic membranes as well as the embryo or foetus;
 - (bb) "embryo" means a developing human organism after fertilization till the end of eight weeks (fifty-six days);

- (bc) “foetus” means a human organism during the period of its development beginning on the fifty-seventh day following fertilization or creation (excluding any time in which its development has been suspended) and ending at the birth;
- (c) “Genetic Counseling Centre” means an institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counselling to patients;
- (d) “Genetic Clinic” means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting pre-natal diagnostic procedures.
- Explanation-* For the purposes of this clause, ‘Genetic Clinic’ includes a vehicle, where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used.
- (e) “Genetic Laboratory” means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic test.
- Explanation-* For the purposes of this clause, ‘Genetic Laboratory’ includes a place where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used.
- (f) “Gynaecologist” means a person who possesses a post- graduate qualification in gynaecology and obstetrics;
- (g) “Medical geneticist” includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining—
- (i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956 (102 of 1956); or
 - (ii) a post-graduate degree in biological sciences;
- (h) “Pediatrician” means a person who possesses a post-graduate qualification in pediatrics;
- (i) “pre-natal diagnostic procedures” means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any other tissue or fluid of a man, or of a woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre-natal diagnostic tests for selection of sex before or after conception;
- (j) “pre-natal diagnostic techniques” includes all pre-natal diagnostic procedures and pre-natal diagnostic tests;
- (k) “pre-natal diagnostic test” means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue or fluid of a pregnant woman or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “registered medical practitioner” means a medical practitioner who possesses any recognised

- edical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, (102 of 1956.) and whose name has been entered in a State Medical Register;
- (n) "regulations" means regulations framed by the Board under this Act;
 - (o) "sex selection" includes any procedure, technique, test or administration or prescription or provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex;
 - (p) "sonologist or imaging specialist" means a person who possesses any one of the medical qualifications recognized under the Indian Medical Council Act, 1956 or who possesses a post-graduate qualification in ultrasonography or imaging techniques or radiology;
 - (q) "State Board" means a State Supervisory Board or a Union territory Supervisory Board constituted under Section 16A;
 - (r) "State Government" in relation to Union territory with Legislature means the Administrator of that Union territory appointed by the President under article 239 of Constitution.

CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

3. *Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.*- On and from the commencement of this Act,—
1. no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;
 2. no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall employ or cause to be employed or take services of any person, whether on honorary basis or on payment who does not possess qualifications as may be prescribed;
 3. no medical geneticist, gynaecologist, paediatrician, registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.
- 3A. *Prohibition of sex-selection-* No person, including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.
- 3B. *Prohibition on sale of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.*- No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.

CHAPTER III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. *Regulation of pre-natal diagnostic techniques.*- On and from the commencement of this Act,—
1. no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);
 2. no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:—
 - (i) chromosomal abnormalities;
 - (ii) genetic metabolic diseases;
 - (iii) haemoglobinopathies;
 - (iv) sex-linked genetic diseases;
 - (v) congenital anomalies;
 - (vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;
 3. no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely:—
 - (i) age of the pregnant woman is above thirty-five years;
 - (ii) the pregnant woman has undergone of two or more spontaneous abortions or foetal loss;
 - (iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
 - (iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as, spasticity or any other genetic disease;
 - (v) any other condition as may be specified by the Central Supervisory Board;
- Provided that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of provisions of section 5 or section 6 unless contrary is proved by the person conducting such ultrasonography;
4. no person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purposes specified in clause (2).
 5. no person including a relative or husband of a woman shall seek or encourage the conduct of any sex-selection technique on her or him or both.
5. *Written consent of pregnant woman and prohibition of communicating the sex of foetus.*
1. No person referred to in clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless—

- (a) he has explained all known side and after effects of such procedures to the pregnant woman concerned;
 - (b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands; and
 - (c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.
2. No person including the person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs or in any other manner.
6. **Determination of sex prohibited.**- On and from the commencement of this Act,—
- (a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;
 - (b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus;
 - (c) no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception.

CHAPTER IV

CENTRAL SUPERVISORY BOARD

7. *Constitution of Central Supervisory Board.*-

1. The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.
2. The Board shall consist of—
 - (a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, *ex-officio*;
 - (b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, *ex-officio*;
 - (c) three members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Women and Child Development, Department of Legal Affairs or Legislative Department in the Ministry of Law and Justice, and Indian System of Medicine and Homoeopathy, *ex-officio*;
 - (d) the Director General of Health Services of the Central Government, *ex-officio*;
 - (e) ten members to be appointed by the Central Government, two each from amongst—
 - (i) eminent medical geneticists;
 - (ii) eminent gynaecologist and obstetrician or expert of *stri-roga or prasuti-tantra*;
 - (iii) eminent paediatricians;
 - (iv) eminent social scientists; and
 - (v) representatives of women welfare organisations;

- (f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;
- (g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order:
- Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;
- (h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, *ex-officio*.
8. **Terms of office of members.-** (1) The term of office of a member, other than an *ex-officio* member, shall be,—
- (a) in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, three years; and
- (b) in case of appointment under clause (g) of the said subsection, one year.
2. If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.
3. The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.
4. The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.
9. **Meetings of the Board.-**
1. The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations:
- Provided that the Board shall meet at least once in six months.
2. The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.
3. If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.
4. All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.
5. Members other than *ex-officio* members shall receive such allowances, if any, from the Board as may be prescribed.

10. *Vacancies, etc., not to invalidate proceedings of the Board.*- No act or proceeding of the Board shall be invalid merely by reason of—
- (a) any vacancy in, or any defect in the constitution of, the Board; or
 - (b) any defect in the appointment of a person acting as a member of the Board; or
 - (c) any irregularity in the procedure of the Board not affecting the merits of the case.
11. *Temporary association of persons with the Board for particular purposes.*
1. The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.
 2. A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.
12. *Appointment or officers and other employees of the Board.*-
1. For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:
 Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.
 2. Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.
13. *Authentication of orders and other instruments of the Board.*- All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf.
14. *Disqualifications for appointment as member.*- A person shall be disqualified for being appointed as a member if, he—
- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - (b) is an undischarged insolvent; or
 - (c) is of unsound mind and stands so declared by a competent court; or
 - (d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or
 - (e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member; or
 - (f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or with any sex selection technique.

15. *Eligibility of member for reappointment.*- Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member.

Provided that no member other than an *ex-officio* member shall be appointed for more than two consecutive terms.

16. *Functions of the Board.* - The Board shall have the following functions, namely:—

- (i) to advise the Central Government on policy matters relating to use of pre-natal diagnostic techniques, sex selection techniques and against their misuse;
- (ii) to review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government changes in the said Act and rules;
- (iii) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex of foetus leading to female foeticide;
- (iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics;
- (v) to oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure its proper and effective implementation;
- (vi) any other functions as may be prescribed under the Act.

- 16A. *Constitution of State Supervisory Board and Union territory Supervisory Board.*-

1. Each State and Union territory having Legislature shall constitute a Board to be known as the State Supervisory Board or the Union territory Supervisory Board, as the case may be, which shall have the following functions:-

- i) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex of foetus leading to female foeticide in the State;
- ii) to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them;
- iii) to monitor the implementation of provisions of the Act and the rules and make suitable recommendations relating thereto, to the Board;
- iv) to send such consolidated reports as may be prescribed in respect of the various activities undertaken in the State under the Act to the Board and the Central Government; and
- v) any other functions as may be prescribed under the Act.

2. The State Board shall consist of-

- a) the Minister in charge of Health and Family Welfare in the State, who shall be the Chairperson, *ex-officio*;
- b) the Secretary in charge of the Department of Health and Family Welfare who shall be the Vice-Chairperson, *ex-officio*;
- c) Secretaries or Commissioners in charge of Departments of Women and Child Development, Social Welfare, Law and Indian System of Medicines and Homoeopathy, *ex-officio*, or their representatives;

- d) Director of Health and Family Welfare or Indian System of Medicines and Homoeopathy of the State Government, *ex-officio*;
 - e) Three women members of Legislative Assembly or Legislative Council;
 - f) Ten members to be appointed by the State Government out of which two each shall be from the following categories:
 - i) eminent social scientists and legal experts;
 - ii) eminent women activists from non-governmental organizations or otherwise;
 - iii) eminent gynaecologists and obstetricians or experts of *stri-roga or prasuti tantra*;
 - iv) eminent paediatricians or medical geneticists;
 - v) eminent radiologists or sonologists;
 - g) an officer not below the rank of Joint Director in charge of Family Welfare, who shall be the Member Secretary, *ex-officio*.
3. The State Board shall meet at least once in four months.
 4. The term of office of a member, other than an *ex-officio* member, shall be three years.
 5. If a vacancy occurs in the office of any member other than an *ex-officio* member, it shall be filled by making fresh appointment.
 6. If a member of the Legislative Assembly or member of the Legislative Council who is a member of the State Board, becomes Minister or Speaker or Deputy Speaker of the Legislative Assembly or Chairperson or Deputy Chairperson of the Legislative Council, she shall cease to be a member of the State Board.
 7. One-third of the total number of members of the State Board shall constitute the quorum.
 8. The State Board may co-opt a member as and when required, provided that the number of co-opted members does not exceed one-third of the total strength of the State Board.
 9. The co-opted members shall have the same powers and functions as other members, except the right to vote and shall abide by the rules and regulations.
 10. In respect of matters not specified in this section, the State Board shall follow procedures and conditions as are applicable to the Board.

CHAPTER V

APPROPRIATE AUTHORITY AND ADVISORY COMMITTEE

17. *Appropriate Authority and Advisory Committee.*- 1. The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purposes of this Act.
2. The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide.

3. The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be,—
- (a) when appointed for the whole of the State or the Union territory, consisting of the following three members-
 - i) an officer of or above the rank of the Joint Director of Health and Family Welfare-Chairperson;
 - ii) an eminent woman representing women's organization; and
 - iii) an officer of Law Department of the State or the Union territory concerned;

Provided that it shall be the duty of the State or the Union territory concerned to constitute multi-member State or Union territory level Appropriate Authority within three months of the coming into force of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002:

Provided further that any vacancy occurring therein shall be filled within three months of that occurrence.

- (b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, may deem fit.
4. The Appropriate Authority shall have the following functions, namely:—
- (a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;
 - (b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;
 - (c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action;
 - (d) to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration;
 - (e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter;
 - (f) to create public awareness against the practice of sex selection or pre-natal determination of sex;
 - (g) to supervise the implementation of the provisions of the Act and rules;
 - (h) to recommend to the CSB and State Boards modifications required in the rules in accordance with changes in technology or social conditions;
 - (i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.
5. The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

- 6 The Advisory Committee shall consist of—
 - (a) three medical experts from amongst gynaecologists, obstetricians, paediatricians and medical geneticists;
 - (b) one legal expert;
 - (c) one officer to represent the department dealing with information and publicity of the State Government or the Union territory, as the case may be;
 - (d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organisations.
7. No person who has been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or sex selection shall be appointed as a member of the Advisory Committee.
8. The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon:

Provided that the period intervening between any two meetings shall not exceed the prescribed period.
9. The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.
- 17A. ***Powers of Appropriate Authorities.***- The Appropriate Authority shall have the powers in respect of the following matters, namely:-
 - a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
 - b) production of any document or material object relating to clause (a);
 - c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
 - d) any other matter which may be prescribed.

CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

18. ***Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.*** (1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus and sex selection, or render services to any of them, after the commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002 unless such centre, laboratory or clinic is duly registered under the Act.

2. Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.
3. Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counselling or conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.
4. Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counselling or conducting pre-natal diagnostic techniques shall cease to conduct any such counselling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.
5. No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. Certificate of registration.-

1. The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advice of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.
2. If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.
3. Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.
4. The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. Cancellation or suspension of registration.-

1. The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.
2. If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

3. Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is, of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).
21. *Appeal.* The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to—
 - (i) the Central Government, where the appeal is against the order of the Central Appropriate Authority; and
 - (ii) the State Government, where the appeal is against the order of the State Appropriate Authority, in the prescribed manner.

CHAPTER VII OFFENCES AND PENALTIES

22. *Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.-*
 1. No person, organization, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound machine or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus or sex selection shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement, in any form, including internet, regarding facilities of pre-natal determination of sex or sex selection before conception available at such centre, laboratory, clinic or at any other place.
 2. No person or organization including Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement in any manner regarding pre-natal determination or pre-conception selection of sex by any means whatsoever, scientific or otherwise.
 3. Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.
*Explanation.—*For the purposes of this section, “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media in electronic or print form and also includes any visible representation made by means of any hoarding, wall-painting, signal, light, sound, smoke or gas.
23. *Offences and penalties.-* (1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with

imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

2. The name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence.

3. Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or ultrasound clinic or imaging clinic or of a medical geneticist, gynaecologist, sonologist or imaging specialist or registered medical practitioner or any other person for sex selection or for conducting pre- natal diagnostic techniques on any pregnant women for the purposes other than those specified in sub-section (2) of section 4, he shall, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and with fine which may extend to one lakh rupees.

4. For the removal of doubts, it is hereby provided, that the provisions of sub-section (3) shall not apply to the woman who was compelled to undergo such diagnostic techniques or such selection.

24. ***Presumption in the case of conduct of pre-natal diagnostic techniques.***- Notwithstanding anything contained in the Indian Evidence Act, 1872, the court shall presume unless the contrary is proved that the pregnant woman was compelled by her husband or any other relative, as the case may be, to undergo pre-natal diagnostic technique for the purposes other than those specified in sub-section (2) of section 4 and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.

25. ***Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.***- Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. ***Offences by companies.***-

1. Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals, and
- (b) “director”, in relation to a firm, means a partner in the firm.

27. *Offence to be cognizable, non-bailable and non-compoundable.*—Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

28. *Cognizance of offences.*

1. No court shall take cognizance of an offence under this Act except on a complaint made by—
 - (a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or
 - (b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

Explanation.—For the purpose of this clause, “person” includes a social organisation.

2. No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
3. Where a complaint has been made under clause (b) of subsection (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

CHAPTER VIII

MISCELLANEOUS

29. *Maintenance of records.*

1. All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed:

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

2. All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. *Power to search and seize records, etc. -*

1. If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place, such Authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.
 2. The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.
31. *Protection of action taken in good faith.*- No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government or by the Authority for anything which is in good faith, done or intended to be done in pursuance of the provisions of this Act.

31A. *Removal of difficulties.*-

1. If any difficulty arises in giving effect to the provisions of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the said Act as appear to it to be necessary or expedient for removing the difficulty.
Provided that no order shall be made under this section after the expiry of a period of three years from the date of commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002.
2. Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

32. *Power to make rules.*-

1. The Central Government may make rules for carrying out the provisions of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for—
 - (i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (2) of section 3;
 - (ia) the manner in which the person conducting ultrasonography on a pregnant woman shall keep record thereof in the clinic under the proviso to sub-section (3) of section 4;
 - (ii) the form in which consent of a pregnant woman has to be obtained under section 5;
 - (iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 8;

- (iv) allowances for members other than ex-officio members admissible under subsection (5) of section 9;
 - (iva) code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics to be laid down by the Central Supervisory Board under clause (iv) of Section 16;
 - (ivb) the manner in which reports shall be furnished by the State and Union territory Supervisory Boards to the Board and the Central Government in respect of various activities undertaken in the State under the Act under clause (iv) of sub-section (1) of section 16A;
 - (ivc) empowering the Appropriate Authority in any other matter under clause (d) of section 17A;
 - (v) the period intervening between any two meetings of the Advisory Committee under the proviso to subsection (8) of section 17;
 - (vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee under sub-section (9) of section 17;
 - (vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18;
 - (viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18;
 - (ix) the form in which a certificate of registration shall be issued under sub-section (1) of section 19;
 - (x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19;
 - (xi) the manner in which an appeal may be preferred under section 21;
 - (xii) the period up to which records, charts, etc., shall be preserved under sub-section (1) of section 29;
 - (xiii) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30;
 - (xiv) any other matter that is required to be, or may be, prescribed.
33. **Power to make regulations.**- The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—
- (a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9;
 - (b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12;

(d) generally for the efficient conduct of the affairs of the Board.

34. ***Rules and regulations to be laid before Parliament.*** – Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

ANNEX 2. PC&PNDT RULES 1996

Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994 - Rules

THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) RULES, 1996
AND
PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES
(PROHIBITION OF SEX SELECTION) RULES, 1996

1. *Short title and commencement.*
 1. These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.
 2. They shall come into force on the date of their publication in the Official Gazette.
2. *Definitions-* In these rules, unless the context otherwise requires:-
 - (a) "Act" means The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994);
 - (b) "employee" means a person working in or employed by a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic, and includes those working on part-time, contractual, consultancy, honorary or on any other basis;
 - (c) "Form" means a Form appended to these rules;
 - (d) XXXX
 - (e) "Section" means a section of the Act;
 - (f) words and expressions used herein and not defined in these rules but defined in the Act, shall have the meanings, respectively, assigned to them in the Act.
3. The qualifications of the employees, the requirement of equipment etc. for a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall be as under:
 1. Any person being or employing
 - (i) a gynaecologist or a paediatrician having six months experience or four weeks training in genetic counselling or
 - (ii) a medical geneticist,
having adequate space and educational charts/models/equipments for carrying out genetic counselling may set up a genetic counselling centre and get it registered as a genetic counselling centre.

2. (a) Any person having adequate space and being or employing
- (i) a Medical Geneticist and
 - (ii) a laboratory technician having a B.Sc. degree in Biological Sciences or a degree or diploma in medical laboratory course with at least one year experience in conducting appropriate pre-natal diagnostic techniques, tests or procedures may set up a genetic laboratory.
- (b) Such laboratory should have or acquire such of the following equipments as may be necessary for carrying out chromosomal studies, bio-chemical studies and molecular studies:-
- (i) Chromosomal studies:
 - (1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.
 - (2) Photo-microscope with fluorescent source of light.
 - (3) Inverted microscope.
 - (4) Incubator and oven.
 - (5) Carbon-dioxide incubator or closed system with 5% CO₂ atmosphere.
 - (6) Autoclave.
 - (7) Refrigerator.
 - (8) Water bath.
 - (9) Centrifuge.
 - (10) Vortex mixer.
 - (11) Magnetic stirrer.
 - (12) pH meter.
 - (13) A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram.
 - (14) Double distillation apparatus (glass).
 - (15) Such other equipment as may be necessary.
 - (ii) Biochemical studies:

(requirements according to tests to be carried out)

 - (1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.
 - (2) Inverted microscope.
 - (3) Incubator and oven.
 - (4) Carbon-dioxide incubator or closed system with 5% CO₂ atmosphere.
 - (5) Autoclave.
 - (6) Refrigerator.
 - (7) Water bath.
 - (8) Centrifuge.

- (9) Electrophoresis apparatus and power supply.
 - (10) Chromatography chamber.
 - (11) Spectro-photometer and Elisa reader or Radio-immunoassay system (with gamma betacounter) or fluorometer for various biochemical test.
 - (12) Vortex mixer.
 - (13) Magnetic stirrer.
 - (14) pH meter.
 - (15) A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram.
 - (16) Double distillation apparatus (glass).
 - (17) Liquid nitrogen tank.
 - (18) Such other equipment as may be necessary.
- (iii) Molecular studies:
- (1) Inverted microscope.
 - (2) Incubator.
 - (3) Oven.
 - (4) Autoclave.
 - (5) Refrigerators (4 degree and minus 20 degree Centigrade).
 - (6) Water bath.
 - (7) Microcentrifuge.
 - (8) Electrophoresis apparatus and power supply.
 - (9) Vortex mixer.
 - (10) Magnetic stirrer.
 - (11) pH meter.
 - (12) A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram.
 - (13) Double distillation apparatus (glass).
 - (14) P.C.R. machine.
 - (15) Refrigerated centrifuge.
 - (16) U.V. Illuminator with photographic attachment or other documentation system.
 - (17) Precision micropipettes.
 - (18) Such other equipments as may be necessary.
- (1) Any person having adequate space and being or employing
- (a) Gynaecologist having experience of performing at least 20 procedures in chorionic villi aspirations per vagina or per abdomen, chorionic villi biopsy, amniocentesis, cordocentesis

- foetoscopy, foetal skin or organ biopsy or foetal blood sampling etc. under supervision of an experienced gynaecologist in these fields, or
- (b) a Sonologist, Imaging Specialist, Radiologist or Registered Medical Practitioner having Post Graduate degree or diploma or six months training or one year experience in sonography or image scanning, or
 - (c) a medical geneticist may set up a genetic clinic/ultrasound clinic/imaging centre.
2. The Genetic Clinic/ultrasound clinic/imaging centre should have or acquire such of the following equipments, as may be necessary for carrying out the tests or procedures-
- (a) Equipment and accessories necessary for carrying out clinical examination by an obstetrician or gynaecologist
 - (b) An ultra-sonography machine including mobile ultrasound machine, imaging machine or any other equipment capable of conducting foetal ultrasonography.
 - (c) Appropriate cathethers and equipment for carrying out chorionic villi aspirations per vagina or per abdomen.
 - (d) Appropriate sterile needles for amniocentesis or cordocentesis.
 - (e) A suitable foetoscope with appropriate accessories for foetoscopy, foetal skin or organ biopsy or foetal blood sampling shall be optional.
 - (f) Equipment for dry and wet sterilization
 - (g) Equipment for carrying out emergency procedures such as evacuation of uterus or resuscitation in case of need.
 - (h) Genetic Works Station.

3A. *Sale of ultrasound machines/imaging machines:*

1. No organization including a commercial organization or a person, including manufacturer, importer, dealer or supplier of ultrasound machines/imaging machines or any other equipment, capable of detecting sex of foetus, shall sell, distribute, supply, rent, allow or authorize the use of any such machine or equipment in any manner, whether on payment or otherwise, to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person unless such Centre, Laboratory, Clinic, body or person is registered under the Act.
2. The provider of such machine/equipment to any person/body registered under the Act shall send to the concerned State/UT Appropriate Authority and to the Central Government, once in three months a list of those to whom the machine/equipment has been provided.
3. Any organization or person, including manufacturer, importer, dealer or supplier of ultrasound machines/imaging machines or any other equipment capable of detecting sex of foetus selling, distributing, supplying or authorizing in any manner, the use of any such machine or equipment to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person registered under the Act shall take an affidavit from such body or person purchasing or getting authorization for using such machine/equipment that the machine/equipment shall not be used for detection of sex of foetus or selection of sex before or after conception.

4. Registration of Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic.-

1. An application for registration shall be made to the Appropriate Authority, in duplicate, in Form A, duly accompanied by an Affidavit containing-
 - (i) an undertaking to the effect that the Genetic Centre/Laboratory/Clinic/ Ultrasound Clinic/Imaging Centre/comboination thereof, as the case may be, shall not conduct any test or procedure, by whatever name called, for selection of sex before or after conception or for detection of sex of foetus except for diseases specified in Section 4(2) nor shall the sex of foetus be disclosed to any body; and
 - (ii) an undertaking to the effect that the Genetic Centre/Laboratory/Clinic/ comboination thereof, as the case may be, shall display prominently a notice that they do not conduct any technique, test or procedure etc. by whatever name called, for detection of sex of foetus or for selection of sex before or after conception.
2. The Appropriate Authority, or any person in his office authorized in this behalf, shall acknowledge receipt of the application for registration, in the acknowledgement slip provided at the bottom of Form A, immediately if delivered at the office of the Appropriate Authority, or not later than the next working day if received by post.

5. Application Fee.-

1. Every application for registration under rule 4 shall be accompanied by an application fee of:-
 - (a) Rs.3000 for Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre.
 - (b) Rs.4000 for an institute, hospital, nursing home, or any place providing jointly the service of a Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic or Imaging Centre or any combination thereof.

Provided that if an application for registration of any Genetic Clinic/Laboratory/Centre etc. has been rejected by the Appropriate Authority, no fee shall be required to be paid on re-submission of the application by the applicant for the same body within 90 days of rejection. Provided further that any subsequent application shall be accompanied with the prescribed fee. Application fee once paid will not be refunded.

2. The application fee shall be paid by a demand draft drawn in favour of the Appropriate Authority, on any scheduled bank payable at the head quarters of the Appropriate Authority concerned. The fees collected by the Appropriate Authority for registration of Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre or any other body or person under sub-rule (1), shall be deposited by the Appropriate Authority concerned in a bank account opened in the name of the official designation of the Appropriate Authority concerned and shall be utilized by the Appropriate Authority in connection with the activities connected with implementation of the provisions of the Act and these rules.

6. Certificate of registration.-

1. The Appropriate Authority shall, after making such enquiry and after satisfying itself that the applicant has complied with all the requirements, place the application before the Advisory

Committee for its advice.

2. Having regard to the advice of the Advisory Committee the Appropriate Authority shall grant a certificate of registration, in duplicate, in Form B to the applicant. One copy of the certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre at a conspicuous place at its place of business:

Provided that the Appropriate Authority may grant a certificate of registration to a Genetic Laboratory or a Genetic Clinic, Ultrasound Clinic or Imaging Centre to conduct one or more specified pre-natal diagnostic tests or procedures, depending on the availability of place, equipment and qualified employees, and standards maintained by such laboratory or clinic.

3. If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for the reasons to be recorded in writing, reject the application for registration and communicate such rejection to the applicant as specified in Form C.
4. An enquiry under sub-rule(1), including inspection at the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, shall, be carried out only after due notice is given to the applicant by the Appropriate Authority.
5. Grant of certificate of registration or rejection of application for registration shall be communicated to the applicant as specified in Form B or Form C, as the case may be, within a period of ninety days from the date of receipt of application for registration.
6. The certificate of registration shall be non-transferable. In the event of change of ownership or change of management or on ceasing to function as a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, both copies, of the certificate of registration shall be surrendered to the Appropriate Authority.
7. In the event of change of ownership or change of management of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, the new owner or manager of such Centre, Laboratory or Clinic shall apply afresh for grant of certificate of registration.
7. **Validity of registration.-** Every certificate of registration shall be valid for a period of five years from the date of its issue.
8. **Renewal of registration.-**
 1. An application for renewal of certificate of registration shall be made in duplicate in Form A, to the Appropriate Authority thirty days before the date of expiry of the certificate of registration. Acknowledgement of receipt of such application shall be issued by the Appropriate Authority in the manner specified in sub-rule (2) of rule 4.
 2. The Appropriate Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of the Act and these rules and having regard to the advice of the Advisory Committee in this behalf, renew the certificate of registration, as

specified in Form B, for a further period of five years from the date of expiry of the certificate of registration earlier granted.

3. If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for reasons to be recorded in writing, reject the application for renewal of certificate of registration and communicate such rejection to the applicant as specified in Form C.
 4. The fees payable for renewal of certificate of registration shall be one half of the fees provided in sub-rule (1) of rule 5.
 5. On receipt of the renewed certificate of registration in duplicate or on receipt of communication of rejection of application for renewal, both copies of the earlier certificate of registration shall be surrendered immediately to the Appropriate Authority by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre.
 6. In the event of failure of the Appropriate Authority to renew the certificate of registration or to communicate rejection of application for renewal of registration within a period of ninety days from the date of receipt of application for renewal of registration, the certificate of registration shall be deemed to have been renewed.
9. **Maintenance and preservation of records.**- (1) Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall maintain a register showing, in serial order, the names and addresses of the men or women given genetic counselling, subjected to pre-natal diagnostic procedures or pre-natal diagnostic tests, the names of their spouses or fathers and the date on which they first reported for such counselling, procedure or test.
2. The record to be maintained by every Genetic Counselling Centre, in respect of each woman counseled shall be as specified in Form D.
 3. The record to be maintained by every Genetic Laboratory, in respect of each man or woman subjected to any pre-natal diagnostic procedure/technique/test, shall be as specified in Form E.
 4. The record to be maintained by every Genetic Clinic, in respect of each man or woman subjected to any pre-natal diagnostic procedure/technique/test, shall be as specified in Form F.
 5. The Appropriate Authority shall maintain a permanent record of applications for grant or renewal of certificate of registration as specified in Form H. Letters of intimation of every change of employee, place, address and equipment installed shall also be preserved as permanent records.
 6. All case related records, forms of consent, laboratory results, microscopic pictures, sonographic plates or slides, recommendations and letters shall be preserved by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre for a period of two years from the date of completion of counselling, pre-natal diagnostic procedure or pre-natal diagnostic test, as the case may be. In the event of any legal proceedings, the records shall be preserved till the final disposal of legal proceedings, or till the expiry of the said period of two years, whichever is later.
 7. In case the Genetic Counselling Centre or Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre maintains records on computer or other electronic equipment, a printed copy

of the record shall be taken and preserved after authentication by a person responsible for such record.

8. Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall send a complete report in respect of all pre-conception or pregnancy related procedures/techniques/tests conducted by them in respect of each month by 5th day of the following month to the concerned Appropriate Authority.

10. Conditions for conducting pre-natal diagnostic procedures.- (1) Before conducting preimplantation genetic diagnosis, or any pre-natal diagnostic technique/test/procedure such as amniocentesis, chorionic villi biopsy, foetal skin or organ biopsy or cordocentesis, a written consent, as specified in Form G, in a language the person undergoing such procedure understands, shall be obtained from her/him:

Provided that where a Genetic Clinic has taken a sample of any body tissue or body fluid and sent it to a Genetic Laboratory for analysis or test, it shall not be necessary for the Genetic Laboratory to obtain a fresh consent in Form G.

1A. Any person conducting ultrasonography/image scanning on a pregnant woman shall give a declaration on each report on ultrasonography/image scanning that he/she has neither detected nor disclosed the sex of foetus of the pregnant woman to any body. The pregnant woman shall before undergoing ultrasonography/image scanning declare that she does not want to know the sex of her foetus.

2. All the State Governments and Union Territories may issue translation of Form G in languages used in the State or Union Territory and where no official translation in a language understood by the pregnant woman is available, the Genetic Clinic may translate Form G into a language she understands.

11. *Facilities for inspection.-*

1. Every Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic, Imaging Centre, nursing home, hospital, institute or any other place where any of the machines or equipments capable of performing any procedure, technique or pre-natal determination of sex or selection of sex before or after conception is used, shall afford all reasonable facilities for inspection of the place, equipment and records to the Appropriate Authority or to any other person authorized by the Appropriate Authority in this behalf for registration of such institutions, by whatever name called, under the Act, or for detection of misuse of such facilities or advertisement therefore or for selection of sex before or after conception or for detection/disclosure of sex of foetus or for detection of cases of violation of the provisions of the Act in any other manner.

2. The Appropriate Authority or the officer authorized by it may seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus, used by any organization if the organization has not got itself registered under the Act. These machines of the organizations may be released if such organization pays penalty equal to five times of the registration fee to the Appropriate Authority concerned and gives an undertaking that it shall not undertake detection of sex of foetus or selection of sex before or after conception.

12. Procedure for search and seizure.-

1. The Appropriate Authority or any officer authorized in this behalf may enter and search at all reasonable times any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Imaging Centre or Ultrasound Clinic in the presence of two or more independent witnesses for the purposes of search and examination of any record, register, document, book, pamphlet, advertisement, or any other material object found therein and seal and seize the same if there is reason to believe that it may furnish evidence of commission of an offence punishable under the Act.

Explanation:- In these Rules-

1. 'Genetic Laboratory/Genetic Clinic/Genetic Counselling Centre' would include an ultrasound centre/imaging centre/nursing home/hospital/institute or any other place, by whatever name called, where any of the machines or equipments capable of selection of sex before or after conception or performing any procedure, technique or test for pre-natal detection of sex of foetus is used;
2. 'material object' would include records, machines and equipments; and
3. 'seize' and 'seizure' would include 'seal' and 'sealing' respectively.
2. A list of any document, record, register, book, pamphlet, advertisement or any other material object found in the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre and seized shall be prepared in duplicate at the place of effecting the seizure. Both copies of such list shall be signed on every page by the Appropriate Authority or the officer authorized in this behalf and by the witnesses to the seizure:

Provided that the list may be prepared, in the presence of the witnesses, at a place other than the place of seizure if, for reasons to be recorded in writing, it is not practicable to make the list at the place of effecting the seizure.

3. One copy of the list referred to in sub-rule (2) shall be handed over, under acknowledgement, to the person from whose custody the document, record, register, book, pamphlet, advertisement or any other material object have been seized:

Provided that a copy of the list of such document, record, register, book, pamphlet, advertisement or other material object seized may be delivered under acknowledgement, or sent by registered post to the owner or manager of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, if no person acknowledging custody of the document, record, register, book, pamphlet, advertisement or other material object seized is available at the place of effecting the seizure.

4. If any material object seized is perishable in nature, the Appropriate Authority, or the officer authorized in this behalf shall make arrangements promptly for sealing, identification and preservation of the material object and also convey it to a facility for analysis or test, if analysis or test be required:

Provided that the refrigerator or other equipment used by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre for preserving such perishable material object may be sealed until such time as arrangements can be made for safe removal of such perishable material object and in such eventuality, mention of keeping the ma-

terial object seized, on the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre shall be made in the list of seizure.

5. In the case of non-completion of search and seizure operation, the Appropriate Authority or the officer authorized in this behalf may make arrangement, by way of mounting a guard or sealing of the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic Ultrasound Clinic or Imaging Centre, for safe keeping, listing and removal of documents, records, book or any other material object to be seized, and to prevent any tampering with such documents, records, books or any other material object.
13. **Intimation of changes in employees, place or equipment.** – Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall intimate every change of employee, place, address and equipment installed, to the Appropriate Authority within a period of thirty days of such change.
14. **Conditions for analysis or test and pre-natal diagnostic procedures.-**
 1. No Genetic Laboratory shall accept for analysis or test any sample, unless referred to it by a Genetic Clinic.
 2. Every pre-natal diagnostic procedure shall invariably be immediately preceded by locating the foetus and placenta through ultrasonography, and the pre-natal diagnostic procedure shall be done under direct ultrasonographic monitoring so as to prevent any damage to the foetus and placenta.
15. **Meetings of the Advisory Committees.-** The intervening period between any two meetings of Advisory Committees constituted under sub-section (5) of Section 17 to advise the Appropriate Authority shall not exceed sixty days.
16. **Allowances to members of the Central Supervisory Board.-**
 1. The ex-officio members, and other Central and State Government officers appointed to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as per the Travelling Allowance rules applicable to them.
 2. The non-official members appointed to, and Members of Parliament elected to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as admissible to non-official and Members of Parliament as the case may be, under the Travelling Allowances rules of the Central Government.
17. **Public Information.-**
 1. Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall prominently display on its premises a notice in English and in the local language or languages for the information of the public, to effect that disclosure of the sex of the foetus is prohibited under law.
 2. At least one copy each of the Act and these rules shall be available on the premises of every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre, and shall be made available to the clientele on demand for perusal.

3. The Appropriate Authority, the Central Government, the State Government, and the Government/Administration of the Union Territory may publish periodically lists of registered Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics and Imaging Centres and findings from the reports and other information in their possession, for the information of the public and for use by the experts in the field.

18. Code of Conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics, Imaging Centres etc.- All persons including the owner, employee or any other person associated with Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics, Imaging Centres registered under the Act/these Rules shall-

- i. not conduct or associate with, or help in carrying out detection or disclosure of sex of foetus in any manner;
- ii. not employ or cause to be employed any person not possessing qualifications necessary for carrying out pre-natal diagnostic techniques/procedures and tests including ultrasonography;
- iii. not conduct or cause to be conducted or aid in conducting by himself or through any other person any techniques or procedure for selection of sex before or after conception or for detection of sex of foetus except for the purposes specified in sub-section (2) of section 4 of the Act;
- iv. not conduct or cause to be conducted or aid in conducting by himself or through any other person any techniques or test or procedure under the Act at a place other than a place registered under the Act/the Rules;
- v. ensure that no provision of the Act and these Rules are violated in any manner;
- vi. ensure that the person conducting any techniques, test or procedure leading to detection of sex of foetus for purposes not covered under section 4(2) of the Act or selection of sex before or after conception, is informed that such procedures lead to violation of the Act and the Rules which are punishable offences;
- vii. help the law enforcing agencies in bringing to book the violators of the provisions of the Act and the Rules;
- viii. display his/her name and designation prominently on the dress worn by him/her;
- ix. write his/her name and designation in full under his/her signature;
- x. on no account conduct or allow/cause to be conducted female foeticide;
- xi. not commit any other act of professional misconduct.

19. Appeals.-

1. Anybody aggrieved by the decision of the Appropriate Authority at sub-district level may appeal to the Appropriate Authority at district level within 30 days of the order of the sub-district level Appropriate Authority.
2. Anybody aggrieved by the decision of the Appropriate Authority at district level may appeal to the Appropriate Authority at State/UT level within 30 days of the order of the District level Appropriate Authority.
3. Each appeal shall be disposed of by the District Appropriate Authority or by the State/Union Territory Appropriate Authority, as the case may be, within 60 days of its receipt.



FORM A

[See rules 4(1) and 8(1)]

(To be submitted in Duplicate with supporting documents as enclosures)

**FORM OF APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION
OF A GENETIC COUNSELLING CENTRE/GENETIC LABORATORY/GENETIC
CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE**

1. Name of the applicant
(Indicate name of the organization sought to be registered)
2. Address of the applicant
3. Type of facility to be registered
(Please specify whether the application is for registration of a Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic/ Ultrasound Clinic/ Imaging Centre or any combination of these)
4. Full name and address/addresses of Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic/ Ultrasound Clinic/ Imaging Centre with Telephone/ Fax number(s)/ Telegraphic/ Telex/ e-mail address(es).
5. Type of ownership of Organisation (individual/ownership/partnership/company/co-operative/any other to be specified). In case type of organization is other than individual ownership, furnish copy of articles of association and names and addresses of other persons responsible for management, as enclosure.
6. Type of Institution (Govt. Hospital/ Municipal Hospital/ Public Hospital/ Private Hospital/ Private Nursing Home/ Private Clinic/ Private Laboratory/ any other to be stated.)

7. Specific pre-natal diagnostic procedures/ tests for which approval is sought
 - (a) Invasive
 - (i) amniocentesis/chorionic villi aspiration/chromosomal/biochemical/molecular studies
 - (b) Non-Invasive Ultrasonography
Leave blank if registration is sought for Genetic Counselling Centre only.
8. Equipment available with the make and model of each equipment. (List to be attached on a separate sheet).
9. (a) Facilities available in the Counselling Centre.
 - (b) Whether facilities are or would be available in the Laboratory/Clinic for the following tests:
 - (i) Ultrasound
 - (ii) Amniocentesis
 - (iii) Chorionic villi aspiration
 - (iv) Foetoscopy
 - (v) Foetal biopsy
 - (vi) Cordocentesis
 - (c) Whether facilities are available in the Laboratory, Clinic for the following:
 - (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii)Molecular studies
 - (iv)Preimplantation gender diagnosis
10. Names, qualifications, experience and registration number of employees (may be furnished as an enclosure)
11. State whether the Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic/ ultrasound clinic/imaging centre¹ qualifies

¹ Strike out whichever is not applicable or not necessary. All enclosures are to be authenticated by signat



for registration in terms of requirements laid down in Rule 3.

- 12. For renewal applications only:
 - (a) Registration No.
 - (b) Date of issue and date of expiry of existing certificate of registration.

- 13. List of Enclosures:

(Please attach a list of enclosures/supporting documents attached to this application.

Date: _____ (.....)

Place _____ Name, designation and signature of the person authorized to sign on behalf of the organization to be registered.

DECLARATION

I, Sh./Smt./Kum./Dr..... son/daughter/wife of aged years resident ofworking as (indicate designation) in (indicate name of the organization to be registered) hereby declare that I have read and understood the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996,

I also undertake to explain the said Act and Rules to all employees of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/ultrasound clinic/imaging centre in respect of which registration is sought and to ensure that Act and Rules are fully complied with.

Date:

Place: _____ (.....)

Name, designation and signature of the person authorized to sign on behalf of the organization to be registered

[SEAL OF THE ORGANISATION SOUGHT TO BE REGISTERED]



ACKNOWLEDGEMENT

[See Rules 4(2) and 8(1)]

The application in Form A in duplicate for grant*/renewal* of registration of Genetic Counseling Centre*/ Genetic Laboratory*/ Genetic Clinic*/ Ultrasound Clinic*/ Imaging Centre* by (Name and address of applicant) has been received by the Appropriate Authority On (date).

*The list of enclosures attached to the application in Form A has been verified with the enclosures submitted and found to be correct.

OR

*On verification it is found that the following documents mentioned in the list of enclosures are not actually enclosed.

This acknowledgement does not confer any rights on the applicant for grant or renewal of registration.

(.....)

Signature and Designation of Appropriate Authority, or authorized person in the Office of the Appropriate Authority.

Date:

SEAL

Place:



ORIGINAL/DUPLICATE FOR DISPLAY

FORM B

[See Rules 6(2), 6(5) and 8(2)]

CERTIFICATE OF REGISTRATION

(To be issued in duplicate)

1. In exercise of the powers conferred under Section 19 (1) of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Appropriate Authority hereby grants registration to the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/ Imaging Centre* named below for purposes of carrying out Genetic Counselling/Pre-natal Diagnostic Procedures*/Pre-Natal Diagnostic Tests/ultrasonography under the aforesaid Act for a period of five years ending on
2. This registration is granted subject to the aforesaid Act and Rules thereunder and any contravention thereof shall result in suspension or cancellation of this Certificate of Registration before the expiry of the said period of five years apart from prosecution.

A. Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/
Ultrasound Clinic*/Imaging Centre*.

B. Pre-natal diagnostic procedures* approved for (Genetic Clinic).

Non-Invasive

(i) Ultrasound

Invasive

(ii) Amniocentesis

(iii) Chorionic villi biopsy

(iv) Foetoscopy

(v) Foetal skin or organ biopsy

(vi) Cordocentesis

(vii) Any other (specify)

C. Pre-natal diagnostic tests* approved (for Genetic Laboratory)

(i) Chromosomal studies

(ii) Biochemical studies

(iii) Molecular studies

Display one copy of this certificate at a conspicuous place at the place of business



- D. Any other purpose (please specify for ultrasound clinic/imaging centre)
3. Model and make of equipment being used (any change is to be intimated to the Appropriate Authority under rule 13).
4. Registration No. allotted
5. Period of validity of earlier Certificate Of Registration.

(For renewed Certificate of Registration only)

From.....To.....

Signature, name and designation of
The Appropriate Authority

Date:

SEAL



FORM C
[See Rules 6(3), 6(5) and 8(3)]

FORM FOR REJECTION OF APPLICATION FOR GRANT/ RENEWAL OF REGISTRATION

In exercise of the powers conferred under Section 19(2) of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the Appropriate Authority
Hereby rejects the application for grant*/renewal* of registration of the Genetic Counselling Centre*/
Genetic Laboratory*/Genetic Clinic*/ Ultrasound Clinic*/Imaging Centre*.

- (1) Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic* Ultrasound Clinic*/Imaging Centre*
- (2) Reasons for rejection of application for grant/renewal of registration:

Signature, name and designation of
The Appropriate Authority
with SEAL of office

Date:
Place:

*Strike out whichever is not applicable or necessary.

FORM D

[See rule 9(2)]

**FORM FOR MAINTENANCE OF RECORDS BY THE GENETIC
COUNSELLING CENTRE**

1. Name, Address of Genetic Counselling Centre
2. REGISTRATION No.
3. Patient's name
4. Age
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by (Full name and address of Doctor(s) with registration No.(s))
(Referral note to be preserved carefully with case papers)
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g.radiological, ultrasonography)
10. Indication for pre-natal diagnosis
 - A. Previous child/children with:
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Congenital anomaly
 - (iv) Mental retardation
 - (v) Haemoglobinopathy
 - (vi) Sex-linked disorders
 - (vii) Single gene disorder
 - (viii) Any other (specify)

- B. Advanced maternal age (35 years)
 - C. Mother/father/sibling having genetic disease (specify)
 - D. Others (specify)
11. Procedure advised²
- (i) Ultrasound
 - (ii) Amniocentesis
 - (iii) Chorionic villi biopsy
 - (iv) Foetoscopy
 - (v) Foetal skin or organ biopsy
 - (vi) Cordocentesis
 - (vii) Any other (specify)
12. Laboratory tests to be carried out
- (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Preimplantation gender diagnosis
13. Result of pre-natal diagnosis
- | | |
|---------------------------|-----------------|
| If abnormal give details. | Normal/Abnormal |
|---------------------------|-----------------|
14. Was MTP advised?
15. Name and address of Genetic Clinic* to which patient is referred.
16. Dates of commencement and completion of genetic counselling .

Place:

Date:

Name, Signature and Registration No. of the
Medical Geneticist/Gynaecologist/Paediatrician
administering Genetic Counselling.

² Strike out whichever is not applicable or necessary.

FORM E
[See Rule 9(3)]

FORM FOR MAINTENANCE OF RECORDS BY GENETIC LABORATORY

1. Name and address of genetic laboratory
2. Registration No.
3. Patient's name
4. Age
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by/sample sent by (full name and address of Genetic Clinic) (Referral note to be preserved carefully with case papers)
8. Type of sample: Maternal blood/Chorionic villus sample/amniotic fluid/Foetal blood or other foetal tissue (specify)
9. Specify indication for pre-natal diagnosis
 - A. Previous child/children with
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Malformation(s)
 - (iv) Mental retardation
 - (v) Hereditary haemolytic anaemia
 - (vi) Sex-linked disorder
 - (vii) Single gene disorder
 - (viii) Any other (specify)
 - B. Advanced maternal age (35 years or above)
 - C. Mother/father/sibling has genetic disease (specify)
 - D. Other (specify)

FORM F

[See Proviso to section 4(3), Rule 9(4) and Rule 10(1A)]

**FORM FOR MAINTENANCE OF RECORDS IN CASE OF A PREGNANT WOMAN
BY GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE**

1. Name and address of Genetic Clinic*/Ultrasound Clinic*/Imaging Centre*
2. Registration No.
3. Patient's name and her age
4. Number of children with sex of each child
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by (full name and address of Doctor(s)/
Genetic Counselling Centre (Referral note to be preserved
carefully with case papers)/self referral
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g.radiological, ultrasonography etc.-specify)

10. Indication for pre-natal diagnosis

- A. Previous child/children with:
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Congenital anomaly
 - (iv) Mental retardation
 - (v) Haemoglobinopathy
 - (vi) Sex-linked disorders
 - (vii) Single gene disorder
 - (viii) Any other (specify)
- B. Advanced maternal age (35 years)
- C. Mother/father/sibling has genetic disease (specify)
- D. Other (specify)

11. Procedures carried out (with name and registration No. of Gynaecologist/Radiologist/Registered Medical Practitioner) who performed it.
- Non-Invasive
- (i) Ultrasound (specify purpose for which ultrasound is done during pregnancy)
[List of indications for ultrasonography of pregnant women are given in the note below]
- Invasive
- (ii) Amniocentesis
 - (iii) Chorionic Villi aspiration
 - (iv) Foetal biopsy
 - (v) Cordocentesis
 - (vi) Any other (specify)
12. Any complication of procedure – please specify
13. Laboratory tests recommended³
- (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Pre-implantation gender diagnosis
14. Result of
- (a) pre-natal diagnostic procedure
(give details)
 - (b) Ultrasonography
(specify abnormality detected, if any). Normal/Abnormal
15. Date(s) on which procedures carried out.
16. Date on which consent obtained. (In case of invasive)
17. The result of pre-natal diagnostic procedure were conveyed toon....
18. Was MTP advised/conducted?
19. Date on which MTP carried out.

Name, Signature and Registration number of the
Gynaecologist/Radiologist/Director of the Clinic

Date:
Place

³ Strike out whichever is not applicable or necessary.

DECLARATION OF PREGNANT WOMAN

I, Ms. _____ (name of the pregnant woman) declare that by undergoing ultrasonography/image scanning etc. I do not want to know the sex of my foetus.

Signature/Thumb impression of pregnant woman

3. Strike out whichever is not applicable or not necessary

DECLARATION OF DOCTOR/PERSON CONDUCTING ULTRASONOGRAPHY/IMAGE SCANNING

I, _____ (name of the person conducting ultrasonography/image scanning) declare that while conducting ultrasonography/image scanning on Ms. _____ (name of the pregnant woman), I have neither detected nor disclosed the sex of her foetus to anybody in any manner.

Name and signature of the person conducting ultrasonography/image scanning/Director or owner of genetic clinic/ultrasound clinic/imaging centre.

Important Note:

- i. Ultrasound is not indicated/advised/performed to determine the sex of foetus except for diagnosis of sex-linked diseases such as Duchenne Muscular Dystrophy, Haemophilia A & B etc.
- ii. During pregnancy Ultrasonography should only be performed when indicated. The following is the representative list of indications for ultrasound during pregnancy.
 1. To diagnose intra-uterine and/or ectopic pregnancy and confirm viability.
 2. Estimation of gestational age (dating).
 3. Detection of number of foetuses and their chorionicity.
 4. Suspected pregnancy with IUCD in-situ or suspected pregnancy following contraceptive failure/MTP failure.
 5. Vaginal bleeding/leaking.
 6. Follow-up of cases of abortion.
 7. Assessment of cervical canal and diameter of internalos.

8. Discrepancy between uterine size and period of amenorrhoea.
9. Any suspected adenexal or uterine pathology/abnormality.
10. Detection of chromosomal abnormalities, foetal structural defects and other abnormalities and their follow-up.
11. To evaluate foetal presentation and position.
12. Assessment of liquor amnii.
13. Pre-term labour/pre-term premature rupture of membranes.
14. Evaluation of placental position, thickness, grading and abnormalities (placenta praevia, retroplacental haemorrhage, abnormal adherence etc.).
15. Evaluation of umbilical cord – presentation, insertion, nuchal encirclement, number of vessels and presence of true knot.
16. Evaluation of previous Caesarean Section scars.
17. Evaluation of foetal growth parameters, foetal weight and foetal well being.
18. Colour flow mapping and duplex Doppler studies.
19. Ultrasound guided procedures such as medical termination of pregnancy, external cephalic version etc. and their follow-up.
20. Adjunct to diagnostic and therapeutic invasive interventions such as chorionic villus sampling (CVS), amniocenteses, foetal blood sampling, foetal skin biopsy, amnio-infusion, intrauterine infusion, placement of shunts etc.
21. Observation of intra-partum events.
22. Medical/surgical conditions complicating pregnancy.
23. Research/scientific studies in recognised institutions.

Person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic/center in Form – F and any deficiency found therein shall amount to contravention of provisions of section 5 or section 6 of the Act, unless contrary is proved by the person conducting such ultrasonography.

FORM G
[See Rule 10]

FORM OF CONSENT
(For invasive techniques)

I, wife/daughter of
Age years residing at
hereby state that I have been explained fully the probable side effects and after effects of the pre-natal diagnostic procedures.

I wish to undergo the preimplantation/pre-natal diagnostic technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the pre-natal procedure/technique/ test conducted show the absence of disease/deformity/disorder.

I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and rules framed thereunder.

Date

Place

Signature of the pregnant woman.

I have explained the contents of the above to the patient and her companion
(Name Address
..... Relationship) in a language she/they understand.

Name, Signature and/Registration number
of Gynaecologist/ Medical Geneticist/
Radiologist/ Paediatrician/ Director of the
Clinic/ Centre/ Laboratory

Date

Name, Address and Registration number of
Genetic Clinic/ Institute

SEAL

FORM H
[See Rule 9(5)]

**FORM FOR MAINTENANCE OF PERMANENT RECORD OF APPLICATIONS FOR GRANT/
REJECTION OF REGISTRATION UNDER THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) ACT, 1994**

1. Sl. No.
2. File number of Appropriate Authority.
3. Date of receipt of application for grant of registration.
4. Name, Address, Phone/Fax etc. of Applicant:
5. Name and address(es) of Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/Imaging Centre*.
6. Date on which case considered by Advisory Committee and recommendation of Advisory Committee, in summary.
7. Outcome of application (state granted/rejected and date of issue of orders- record date of issue of order in Form B or Form C).
8. Registration number allotted and date of expiry of registration.
9. Renewals (date of renewal and renewed up to).
10. File number in which renewals dealt.
11. Additional information, if any.

Name, Designation and Signature of
Appropriate Authority

Guidance for Appropriate Authority

- (a) Form H is a permanent record to be maintained as a register, in the custody of the Appropriate Authority.
- (b)*Means strike out whichever is not applicable.
- (c) On renewal, the Registration Number of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre will not change. A fresh registration Number will be allotted in the event of change of ownership or management.
- (d) Registration number shall not be allotted twice.
- (e) Each Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre may be allotted a folio consisting of two pages of the Register for recording Form H.
- (f) The space provided for 'additional information' may be used for recording suspension, cancellations, rejection of application for renewal, change of ownership/management, outcome of any legal proceedings, etc.
- (g) Every folio (i.e. 2 pages) of the Register shall be authenticated by signature of the Appropriate Authority with date, and every subsequent entry shall also be similarly authenticated.

APPENDIX-III

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) (ADVISORY COMMITTEE) RULES, 1996

G.S.R. 540 (E), dated 26th November, 1996- In exercise of the powers conferred by Sec.32 of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules, namely:-

1. *Short title and commencement.*-

1. These rules may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (Advisory Committees) Rules, 1996.
2. They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*- In these rules, unless the context otherwise requires:-

- (a) "Act" means the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994);
- (b) "Advisory Committee" means an Advisory Committee constituted under sub-section (5) of Section 17 of the Act;
- (c) "Chairman" means the Chairman of the Advisory Committee appointed under sub-section (5) of Section 17;
- (d) "Principle rules" means the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996;
- (e) "section" means a section of the Act;
- (f) "words and expressions" used herein and not defined in these rules but defined in the Act or in the principal rules, as the case may be, shall have the meanings, respectively, assigned to them in the Act or in the principle rules.

3. *Terms and conditions of appointment as a member of an Advisory Committee.*- (1) No person shall be appointed as a member of an Advisory Committee if he –

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government or the State Government, as the case may be, involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a competent Court; or
- (d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

- (e) has, in the opinion of the Central Government or the State Government, as the case may be, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Advisory Committee; or
 - (f) has, in the opinion of the Central Government or the State Government, as the case may be, been associated with the sue or promotion of pre-natal diagnostic techniques for determination of sex.
2. Every member of an Advisory Committee shall be a resident of the State or Union Territory, for which the Advisory Committee to which he is appointed as a member, has been constituted.
 3. A member of an Advisory Committee shall hold office during the pleasure of the Central Government or the State Government, as the case may be.
 4. Subject to the provisions of sub-rule (3), every such member shall hold office for a period not exceeding three years:
 Provided that any person holding office as a member of an Advisory Committee immediately before the commencement of these rules shall hold such office only for the term of three years from the date of his appointment.
 5. A retiring member or a member whose term of office has expired by efflux of time shall be eligible for re-appointment.
 6. A casual vacancy in an Advisory Committee caused by the resignation, death, transfer or removal of any member or otherwise shall be filled by fresh appointment and the person so appointed shall hold office for a period not exceeding the term of office of the member in whose place he is appointed.
 7. The Central Government or the State Government, as the case may be, may remove from office any member of an Advisory Committee before the expiration of his term of office.
 8. Every member of an Advisory Committee shall be entitled to draw traveling and daily allowances for journeys performed by him for attending the meetings (including a meeting adjourned for want of quorum), of the Advisory Committee or for the purpose of discharging any other duties prescribed under the Act, or under the Principle rules or under these rules, on the scale admissible to First Grade Officers of the Government of the State or of the Union Territory, as the case may be.
4. **Meetings of the Advisory Committees.-** The intervening period between any two meetings of an Advisory Committee shall not exceed sixty days.
 5. **Notice of meetings.-**
 1. At least seven clear days' notice of all meetings of the Advisory Committee shall be given to each member, but an urgent meeting may be called by the Chairman at three clear days' notice:
 Provided that if the Chairman is not available, and a meeting is required to be held within the time limit prescribed in Rule 4, the Appropriate Authority may call a meeting with seven clear days' notice after consultation with not less than four of the members of the Advisory Committee.
 2. The notice shall state the business to be transacted at the meeting and no business other than that stated shall be transacted at such meeting except with the consent of the Chairman or on his motion.

6. ***Business ordinarily to be transacted at meetings.***- The business of the Advisory Committee shall ordinarily be transacted at a meeting duly called in accordance with the provisions of these rules:

Provided that the Chairman may, if he thinks fit, circulate any urgent matter among the members of the Advisory Committee for their opinion.
7. ***Quorum.***- At every meeting of the Advisory Committee, four members shall form a quorum.
8. ***Chairman of the meeting.***- Meetings of the Advisory Committee shall be presided over by the Chairman or in his absence, or if no Chairman has been appointed, by a member elected by the members present from among themselves.
9. ***Assistance to be rendered by the Appropriate Authority to the Advisory Committee.***-
 1. Every meeting of the Advisory Committee shall be attended by the Appropriate Authority concerned.
 2. All secretarial and other assistance to the Advisory Committee for the discharge of its functions shall be provided by the Appropriate Authority.
 3. The Appropriate Authority shall issue the notice of meeting, agenda, notes on agenda and the minutes of the meeting, in consultation with the Chairman, subject to the provisions of Rules 5,6, 7 and 12.
10. ***Decisions on questions before the Advisory Committee.***-
 1. The advice tendered by the Advisory Committee shall be adopted, and in the event of any difference of opinion amongst the members, the matter shall be put to vote and decided by a simple majority of the members present.
 2. The Appropriate Authority shall not have a right to vote.
 3. In the event of tie in votes, the Chairman or in his absence, the member presiding shall have a second or casting vote.
 4. The fact of any question having been decided by the process of voting instead of by adoption, shall be recorded in the minutes of that meeting of the Advisory Committee.
11. ***Vacancies etc. not to invalidate proceedings of the Advisory Committees.***- No meeting or proceeding of the Advisory Committee shall be invalid merely by reason of-
 - (a) any vacancy in, or any defect in the constitution of the Advisory Committee; or
 - (b) any defect in the appointment of a person to be a member of the Advisory Committee; or
 - (c) any irregularity in the procedure adopted by the Advisory Committee not affecting the merits of the case.
12. ***Record of proceedings of the Advisory Committee.***- One set of the agenda, notes on agenda, supporting documents and minutes of every meeting of the Advisory Committee shall be authenticated by the signature of the Chairman or in his absence by the signature of the member presiding, and preserved by the Appropriate Authority as permanent records.

ANNEX 3: PC&PNDT ACT AMENDMENT RULES 2012

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99


सत्यमेव जयते

भारत का राजपत्र

The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, मंगलवार, जून 5, 2012/ज्येष्ठ 15, 1934

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स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 4 जून, 2012

सा.का.नि. 418(अ).—केन्द्रीय सरकार गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियमावली, 1996 में निम्नलिखित और संशोधन करती हैं, अर्थात्

1. (1) ये नियम गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) संशोधित नियमावली, 2012 के नाम से अभिप्रेत होंगे।

(2) ये नियम सरकारी राजपत्र में प्रकाशित होने की तारीख से प्रभावी होंगे।

2. गर्भधारण पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियम 1996 (इसके बाद कथित नियम के रूप में संदर्भित होगा) में नियम 3 के बाद नियम 3 क के पूर्व निम्नलिखित प्रतिस्थापित किए जायेंगे, जैसे:-

(3) "अधिनियम के तहत किसी आनुवंशिक क्लीनिक/अल्ट्रासाउंड क्लीनिक/इमेजिंग केन्द्र

में अल्ट्रासोनोग्राफी करने के पात्र प्रत्येक चिकित्सा व्यावसायी को जिले के अन्दर अधिकतम दो ऐसे

क्लीनिक/केन्द्रों में ही पंजीकृत कराने की अनुमति प्रदान की जायेगी। प्रत्येक क्लीनिक/केन्द्र के द्वारा इन चिकित्सा व्यावसायिकों के परामर्श घंटे स्पष्ट रूप से निर्दिष्ट किए जायेंगे।"

3. उपर्युक्त नियमों के अधीन नियम 5 के उप नियम (1) में निम्नलिखित उप नियम शामिल हैं:

(क) मद संख्या (क) में शब्द एवं अंकों में 3,000.00 रुपये शब्द के स्थान पर पच्चीस हजार रुपये" होंगे।

(ख) मद संख्या (ख) में शब्द एवं अंकों में 4,000.00 रू. शब्द के स्थान पर "पैंतीस हजार रुपये" होंगे।

4. उक्त नियमावली के नियम 13 में "ऐसे परिवर्तन के तीस दिनों के अन्दर" के स्थान पर "ऐसे परिवर्तन की संभावित तारीख से कम से कम तीस दिन पूर्व और समुचित प्राधिकारी से पंजीयन प्रमाणपत्र के पुनः जारी करने का अनुरोध जिसमें परिवर्तन का विधिवत समावेश होगा"।

[फा. सं. 24026/60/2008-पीएनडीटी]

मनोज झलानी, संयुक्त सचिव

टिप्पणी :

मूल अधिसूचना जी.एस.आर. 1(ई.) दिनांक 1 जनवरी, 1996 द्वारा भारत के राजपत्र में प्रकाशित हुआ था और बाद में अधिसूचना सं. जीएसआर 109 (ई.), दिनांक 14.2.2003, जीएसआर 426 (ई.) दिनांक 31.5.2011, जीएसआर 80(ई.) दिनांक 9.2.2012 द्वारा संशोधित किया गया।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

NOTIFICATION

New Delhi, the 4th June, 2012

G.S.R. 418(E).—In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following further amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 namely :-

1. (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules,

1996 (hereinafter referred to as the said rules), after rule 3, the following shall be inserted, before rule 3A, namely:-

“(3) Each medical practitioner qualified under the Act to conduct ultrasonography in a genetic clinic/ ultrasound clinic/ imaging centre shall be permitted to be registered with a maximum of two such clinics/ centres within a district. The consulting hours for such medical practitioner, shall be clearly specified by each clinic/ centre”.

3. In the said rules, in rule 5 in sub-rule (1), the following sub-rule,-

(a) In item (a) for the letters and figure “Rs. 3,000.00”, the words “rupees twenty five thousand” shall be substituted.

(b) In item (b) for the letters and figure “Rs 4,000.00”, the words “rupees thirty five thousand” shall be substituted.

4. In the said rules, in rule 13, for the words “within a period of thirty days of such change”, the words “atleast thirty days in advance of the expected date of such change, and seek re-issuance of certificate of registration from the Appropriate Authority, with the changes duly incorporated” shall be substituted.

[F. No. 24026/60/2008-PNDT]

MANOJ JHALANI, Jt. Secy.

Note : The principal notification was published in the Gazette of India vide G.S.R. 1(E), dated the 1st January, 1996 and subsequently amended, vide notification numbers. G.S.R. 109 (E), dated the 14th February, 2003; G.S.R. 426 (E), dated the 31st May, 2011; G.S.R. 80 (E), dated the 9th February 2012.

ANNEX4: PC&PNDT ACT AMENDMENT RULES 2014 (SIX MONTHS TRAINING RULES)

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 11] नई दिल्ली, शुक्रवार, जनवरी 10, 2014/पौष 20, 1935
No. 11] NEW DELHI, FRIDAY, JANUARY 10, 2014/PAUSHA 20, 1935

स्वास्थ्य एवं परिवार कल्याण मंत्रालय
(स्वास्थ्य एवं परिवार कल्याण विभाग)
अधिसूचना
नई दिल्ली, 9 जनवरी, 2014

सा.का.नि. 13(अ).—केन्द्रीय सरकार गर्भधारण पूर्व एवं प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गर्भधारण पूर्व एवं प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्—

- (1) इन नियमों का नाम गर्भधारण पूर्व एवं प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) संशोधन नियम, 2014 है।
(2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।
- गर्भाधारण पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 के नियम 3 के उपनियम (3) के खंड (1) के उप खंड (ख) के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् :

"(ख) सोनोलॉजिस्ट या इमेजिंग विशेषज्ञ या रजिस्ट्रीकृत चिकित्सा व्यवसायी जिनके पास स्नातकोत्तर डिग्री या डिप्लोमा हो या जिन्होंने गर्भधारण पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) (छह मासिक प्रशिक्षण) नियम, 2014 में विहित रीति में, सम्यक रूप से छह मासिक प्रशिक्षण लिया हो।

[फा. सं.एन-24026/60/2008-पीएनडीटी]

डॉ. राकेश कुमार, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र में सा.का.नि. 1(अ), तारीख 1 जनवरी, 1996 द्वारा प्रकाशित की गई थी और संशोधन अधिसूचना सं. सा.का.नि. 109(अ) तारीख 14 फरवरी, 2003 ; सा.का.नि. 426 (अ), तारीख 31 मई, 2011 ; सा.का.नि. 80 (अ), तारीख 7 फरवरी, 2012 ; (09.02.2012 से प्रभावी) सा.का.नि. 418 (अ) तारीख 4 जून, 2012 (05.06.2012 से प्रभावी) द्वारा संशोधित की गई थी ।

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)
NOTIFICATION

New Delhi, the 9th January, 2014

G.S.R. 13 (E).—In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules further to amend the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, namely :—

1. (1) These Rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, in rule 3, in sub-rule (3), in clause (1), for sub-clause (b), the following shall be substituted, namely:—

“(b) a sonologist or imaging specialist or registered medical practitioner having Post Graduate degree or diploma or six months training duly imparted in the manner prescribed in the “the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014; or”.

[F No. N.24026/60/2008-PNDT]

Dr. RAKESH KUMAR, Jt. Secy.

Note: - The principal notification was published in the Gazette of India, vide G.S.R 1(E), dated the 1st January, 1996 and amended, vide notification No. G.S.R 109 (E), dated the 14th February, 2003; G.S.R 426 (E), dated the 31st May, 2011; G.S.R 80 (E), dated the 7th February, 2012(w.e.f. 09.02.2012); G.S.R 418 (E), dated the 4th June, 2012(w.e.f. 05.06.2012).

अधिसूचना

नई दिल्ली, 9 जनवरी, 2014

सा.का.नि. 14 (अ).—केन्द्रीय सरकार गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57), की धारा 32 उप-धारा (2) के खंड(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात्:—

1. **संक्षिप्त नाम और प्रारंभ** — (1) इन नियमों का संक्षिप्त नाम गर्भधारण पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) (छह मासिक प्रशिक्षण) नियम, 2014 हैं।

2. ये राजपत्र में इनके प्रकाशन की तारीख को प्रवृत्त होंगे।

(2) **परिभाषाएं** : इन नियमों में जब तक संदर्भ अन्यथा अपेक्षित न हो,—

(क) “अधिनियम” से, गर्भधारण पूर्व एवं प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) अभिप्रेत है;

(ख) “मूल नियम” से, गर्भधारण पूर्व एवं प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियमावली, 1996 अभिप्रेत है;

(ग) “छह मासिक प्रशिक्षण” से इन नियमों के अधीन दिया गया प्रशिक्षण अभिप्रेत है;

(घ) “पादय विवरण” से, अनुसूची 1 में दिए गए पादय विवरण अभिप्रेत है;

(ङ) “लॉग बुक और निर्धारण” से, अनुसूची 2 में यथाविनिर्दिष्ट लॉगबुक और निर्धारण अभिप्रेत है;

- (च) उन शब्दों और पदों के, जो इसमें प्रयुक्त हैं; और इन नियमों में परिभाषित नहीं है किंतु यथास्थिति, अधिनियम या मूल नियमों में परिभाषित हैं, वही अर्थ होंगे जो उस अधिनियम या मूल नियम हैं।
3. **अल्ट्रासोनोग्राफी में छह मासिक प्रशिक्षण का नामपद्धति** — इन नियमों के अधीन दिए जाने वाले छह मासिक प्रशिक्षण को "उदरीय श्रोणि अल्ट्रासोनोग्राफी के मूलभूत: एम.बी.बी.एस. डॉक्टरों के लिए स्तर एक" के रूप में जाना जाएगा।
 4. **प्रशिक्षण की अवधि** — प्रशिक्षण के किसी प्रमाणपत्र को प्राप्त करने के लिए प्रशिक्षण की अवधि 300 घंटे होगी।
 5. **छह मासिक प्रशिक्षण की पाठ्यक्रम के घटक** — (1) प्रशिक्षण पाठ्यचर्या के निम्नलिखित मुख्य घटक होंगे:
 - (क) रजिस्ट्रीकृत चिकित्सा व्यवसायी को ज्ञान, वृत्तिक कौशल, रूख और नैदानिक सक्षमता के साथ सिद्धांत आधारित ज्ञान से सज्जित करने के लिए;
 - (ख) कौशल आधारित ज्ञान;
 - (ग) लॉग बुक और निर्धारण।
 (2) उक्त छह मासिक प्रशिक्षण के लिए व्यापक पाठ्य विवरण अनुसूची 1 में यथाविनिर्दिष्ट है।
 (3) लॉगबुक और निर्धारण से संबंधित ब्यौरे अनुसूची 2 में यथाविनिर्दिष्ट हैं।
 6. **प्रशिक्षण के लिए पात्रता** — (1) कोई रजिस्ट्रीकृत चिकित्सा व्यवसायी उक्त छह मासिक प्रशिक्षण को करने के लिए पात्र होगा।
 (2) ऐसे विद्यमान रजिस्ट्रीकृत चिकित्सा व्यवसायी जो एक वर्ष के अनुभव या छह मासिक प्रशिक्षण के आधार पर किसी जननिक क्लीनिक या अल्ट्रासाउंड क्लीनिक या इमेजिंग केन्द्र में अल्ट्रासाउंड की प्रक्रिया को संचालित कर रहे हैं उक्त प्रशिक्षण को करने से छूट प्राप्त होगी परंतु वे अनुसूची 2 में विनिर्दिष्ट सक्षमता आधारित निर्धारण अर्हित होने के लिये योग्य हैं और उक्त सक्षमता आधारित परीक्षा को पूर्ण करने में असफल होने की दशा में रजिस्ट्रीकरण के नवीकरण के प्रयोजन के लिए, उनसे इन नियमों के अधीन यथा उपबंधित छह मासिक प्रशिक्षण पूरा करना अपेक्षित होगा।
 7. **छह मासिक प्रशिक्षण और इसकी मान्यता के लिए संस्थानों का प्रत्यायन** — (1) निम्नलिखित शिक्षण संस्थानों छह मासिक प्रशिक्षण देने के लिए प्रशिक्षण केन्द्रों के रूप में प्रत्याक्षित किए जाएंगे अर्थात् :—
 - (क) संसद के अधिनियमों के अंतर्गत स्थापित उत्कर्ष केंद्र;
 - (ख) प्रसूति-विज्ञान या स्त्री रोग विज्ञान और विकिरण-चिकित्सा विज्ञान में स्नातकोत्तर कार्यक्रम की प्रस्थापना करने वाले भारतीय आयुर्विज्ञान परिषद् द्वारा मान्यताप्राप्त संस्थान;
 - (ग) प्रसूति विज्ञान व स्त्री रोग विज्ञान और विकिरण-चिकित्सा विज्ञान में पूर्णकालिक आवासीय डीएनबी प्रोग्राम की प्रस्थापना करने वाले संस्थान।
 (2) राज्य स्वास्थ्य चिकित्सा शिक्षा विभाग द्वारा इस प्रयोजन के लिए मान्यताप्राप्त संस्थानों के नाम राज्य-वार अधिसूचित किए जाएंगे।
 परंतु छह मासिक प्रशिक्षण देने के लिए मान्यताप्राप्त शिक्षण संस्थान, शीर्ष नियंत्रक निकाय जैसे भारतीय आयुर्विज्ञान परिषद् या राष्ट्रीय परीक्षा बोर्ड के अनुसार संकाय सहित अवसंरचना, उपस्कर और जनशक्ति, मानकों का अनुरक्षण करेंगे।
 8. **छात्रों का चयन** — (1) ऐसे प्रशिक्षण में प्रवेश के लिए रजिस्ट्रीकृत चिकित्सा व्यवसायी का चयन और भर्ती निम्नलिखित मापदंडों के आधार होगी :
 - (क) ऐसे प्रशिक्षण में प्रवेश के लिए भर्ती छात्र शिक्षक के 1:1 अनुपात में होगा और विकिरण चिकित्सा विभाग में प्रशिक्षण दिया जाएगा।
 - (ख) राज्य स्नातकोत्तर प्रवेश परीक्षा की योग्यता सूची के अनुसार चयन होगा।
 - (ग) सेवारत अभ्यर्थियों के लिए 20 प्रतिशत आरक्षण।
 9. **परिवर्तित मापदंडों को भविष्यलक्षी बनाया जाना** — नए रजिस्ट्रीकरण की दशा में, ये नियम तत्काल प्रभाव से प्रवृत्त होंगे। तथापि, वे सभी रजिस्ट्रीकृत चिकित्सा व्यवसायी जो एक वर्ष के अनुभव या छह मासिक प्रशिक्षण के आधार पर आनुवंशिकी निदानशाला या अल्ट्रासाउंड निदानशाला अथवा इमेजिंग केंद्र में नियोजित हैं और अनुसूची 2 में यथाविनिर्दिष्ट सक्षमता आधारित परीक्षा अर्हित करने में असफल रहते हैं; को आवेदन करना होगा और 01 जनवरी, 2017 तक या उससे पूर्व छह मासिक प्रशिक्षण उत्तीर्ण करना होगा।
 10. **प्रशिक्षण के लिए फीस संरचना** — (1) छह मासिक प्रशिक्षण के संचालन के लिए प्रशिक्षण फीस 20,000 रुपये से अधिक नहीं होगी।

- (2) ऐसे रजिस्ट्रीकृत चिकित्सा व्यवसायी जो किसी आनुवंशिक निदानशाला या अल्ट्रासाउंड निदानशाला अथवा ईमेजिंग केंद्र में अल्ट्रासोनोग्राफी संचालन के लिए पहले से ही रजिस्ट्रीकृत हैं और उनसे सक्षमता आधारित मूल्यांकन उत्तीर्ण करना अपेक्षित होगा, फीस 10,000 रुपये से अधिक नहीं होगी।
- (3) सेवारत रजिस्ट्रीकृत चिकित्सा व्यवसायी के लिए फीस संरचना या अधित्यजन का संबंधित राज्य सरकारों द्वारा विनिश्चय किया जाएगा।
11. **कर्मचारिवृद्ध संकाय** — (1) रजिस्ट्रीकृत चिकित्सा व्यवसायी के लिए उक्त छह मासिक प्रशिक्षण का संचालन करने वाले संस्थान जो उक्त प्रशिक्षण कार्यक्रम के लिए क्रमशः नियन्त्रक निकायों से पूर्ण अवधि संकाय के रूप में मान्यताप्राप्त हो विकिरण-चिकित्सा विज्ञान या प्रसूति विज्ञान अथवा स्त्री रोग विज्ञान में स्नातकोत्तर प्क्षकों की नियुक्ति करेगा।
- (2) डीन या क्रमशः प्क्षण संस्थानों के प्रमुख प्रशिक्षण कार्यक्रम को सम्पूर्ण मॉनीटर करने के लिए उत्तरदायी होंगे।
12. **मॉनीटर करने की अपेक्षाएं**— छह मासिक प्रशिक्षण देने वाले प्रशिक्षण संस्थानों की मॉनीटरी संबंधित शीर्ष विनियामक नियन्त्रक निकायों के द्वारा अधिकथित विद्यमान सन्निधियों के अनुसार होगी।
13. **सक्षमता आधारित मूल्यांकन** — छह मासिक प्रशिक्षण के अंत में अंतिम सक्षमता आधारित मूल्यांकन अनुसूची 2 में विनिर्दिष्ट तंत्र के अनुसार किया जाएगा।
14. **प्रशिक्षण प्रमाणपत्र की विधिमाम्यता** — किसी भी राज्य से प्राप्त प्रशिक्षण प्रमाणपत्र सभी राज्यों में अधिनियम के अधीन रजिस्ट्रीकरण के प्रयोजन के लिए लागू होगा।

अनुसूची-1

उदर श्रोणीय अल्ट्रासोनोग्राफी में मूलभूत सिद्धांत : *लेवल एक एमबीबीएस डॉक्टरों के लिए 6 महीने का पाठ्यक्रम*
अल्ट्रासोनोग्राफी का पाठ्य विवरण

यह प्रशिक्षण, व्यक्तियों को, एक समुचित और सुरक्षित तरीके से अल्ट्रासाउंड प्रतिरूपण का इस्तेमाल करने के लिए ज्ञान, व्यावसायिक कौशल, मनोवृत्तियों और नैदानिक सक्षमताओं से लैस करेगा।

प्रशिक्षण के मोटे तौर पर निम्नलिखित दो घटक होंगे:

1. ज्ञान आधारित

सैद्धांतिक पाठ्यक्रम — अल्ट्रासाउंड के भौतिक-विज्ञान, अल्ट्रासाउंड मशीनों और जांचों, अल्ट्रासाउंड को इस्तेमाल करने के तरीके, प्रसव पूर्व निदान तकनीक अधिनियम, अल्ट्रासाउंड के विधियों, चिकित्सा-विधिक पहलुओं, प्रणाली विज्ञान, मरीज की तैयारियों, प्रथम, द्वितीय और तृतीय तिमाही में इस्तेमाल सहित संपूर्ण प्रासविक अल्ट्रासाउंड, आशंकित गर्भपात का निदान, एकटॉपिक गर्भावस्था, जीवमिति, असामान्यता स्कैनिंग, इंड्रा-यूटेराइन ग्रोथ रिटार्डेशन (आईयूजीआर), बीजाण्डासन मूल्यांकन, एमनियोटिक फ्लुइड मूल्यांकन, कलर डोपलर इस्तेमाल और 3डी एवं 4डी अल्ट्रासाउंड, महिला श्रोणी का मूल्यांकन करने और बांझपन का मूल्यांकन करने में संपूर्ण स्त्रीरोग-विज्ञान के इस्तेमालों पर व्याख्यान कवर करेगा।

2. कौशल आधारित

- (1) दो आयामी प्रतिरूपण और तीन आयामी संरचना में स्पष्ट रूप से देखने की योग्यता।
- (2) हाथ-आँख का समन्वय।
- (3) पर्यवेक्षण आवश्यक है।

सारांश सूचीकरण

1. ज्ञान-आधारित : सिद्धांत का पाठ्यक्रम

उपरोक्त पाठ्य विवरण के सैद्धांतिक पाठ्यक्रम में दिए गए विषय कवर करने के अलावा, कम से कम निम्नलिखित शामिल हो:

(क) अल्ट्रासाउंड जांच के सिद्धांत

- (i) भौतिक-शास्त्र, शल्यकर्म और सुरक्षा
- (ii) अल्ट्रासाउंड प्रणालियाँ और जांच
- (iii) शल्यकर्म और नियंत्रण पैनल

(ख) अल्ट्रासाउंड स्कैनिंग करना

- (i) सहमति
- (ii) संरक्षिका
- (iii) गोपनीयता

- (iv) संक्रमण नियंत्रण
- (v) जांच तकनीक : जांच क्रियाएं और प्रतिरूपण अभिमुखीकरण।
- (ग) सामान्य श्रोणीय शरीर रचना—विज्ञान
- (i) सामान्य गर्भाशय, अण्डाशय, एंडोमेट्रियम और श्रोणी की अल्ट्रासाउंड स्कैन दिखावट।
- (ii) रजोधर्म चक्र के दौरान एंडोमेट्रियम और अण्डाशय संबंधी परिवर्तन।
- (iii) श्रोणीय संरचनाओं के आयामों को मापने का तरीका।
- (iv) एंडोमेट्रियम मोटाई का माप।
- (घ) प्रारंभिक गर्भावस्था
- (i) प्रारंभिक गर्भावस्थाएं भ्रूण, बीजाण्डासन, अंग संचालन आयु, दोहरा गर्भावस्था में अल्ट्रासाउंड स्कैन दिखावट
- (ii) प्रारंभिक गर्भावस्थाएं के जटिलताओं का अभिज्ञान और निदान जिसके अंतर्गत निम्नलिखित होंगे :-
- (क) अधिक—गर्भाघय गर्भावस्था
- (ख) अधिक—गर्भाघय गर्भावस्था
- (ग) गर्भपात
- (घ) गर्भागमन को निरोध करने का प्रबंधन
- (ङ) श्रोणीय रोग—विज्ञान की पहचान या अभिज्ञान
- (i) अतिरज, अंतररजोधर्म रक्तस्राव, रजोधर्म के पश्चात रक्तस्राव के नियंत्रण में अल्ट्रासाउंड स्कैन का इस्तेमाल।
- (ii) बहुकृमिकोषीय बीजाण्डासनों, गर्भाशयन के फाइब्रॉयड्स, ग्रंथ्याभ तारासंकुचन और ग्रंथ्याभमेटरियल पॉलिप्स में अल्ट्रासाउंड स्कैन दिखावटें।
- (iii) अण्डाशयी कृमिकोष—कॉरपस ल्यूटेयम, साधारण और जटिल कृमिकोषों और पुंजों की अल्ट्रासाउंड दिखावटें।
- (iv) जटिल अण्डाशयी पुंज या अण्डशयी स्त्रीनिंग
- (क) रजोनिवृत्त महिलाओं में एंडोमेट्रियल रोग—विज्ञान।
- (ख) परिपक्वता बीजपोषक अर्बुद।
- (ग) चिरकालिक श्रोणीय दर्द।
- (घ) सहायताप्राप्त गर्भधारण के लिए बांझपन और फॉलिक्यूलर ट्रैकिंग में ट्यूबल प्राकट्य का मूल्यांकन
- (ङ) भ्रंश, असंयम और गुदा संबंधी अवरोधिनी परिवर्तनों का मूल्यांकन।
- (च) प्रजनक औषधि
- (i) एंडोमेट्रियम पर गर्भनिरोधक हारमोनों और रजोधर्म का प्रभाव।
- (ii) अंतःगर्भाशयी यंत्र या अंतः गर्भाशयी प्रणाली और इंप्लानॉन पोजीषन के अभिज्ञान में अल्ट्रासाउंड स्कैन का इस्तेमाल।

टिप्पणः किसी सैद्धांतिक पाठ्यक्रम में उपस्थिति अनिवार्य है। सैद्धांतिक पाठ्यक्रम में किसी हैंड-ऑन घटक का शामिल होना आवश्यक नहीं है।

II. कौशल आधारित**(क) मूलभूत प्रतिरूपण कौशल**

- (i) मशीन का सेट-अप
- (ii) स्कैन के लिए परामर्श
- (iii) उदरपारीय बनाम योनिकपारीय मार्ग तय करना
- (iv) जांच की पसंद।
- (v) मरीज को अवस्थित करना।
- (vi) अभिमुखीकरण।
- (vii) सामान्य एंडोमेट्रियम की पहचान करना।
- (viii) सामान्य मायोमेट्रियम की पहचान करना।
- (ix) सामान्य अण्डाशयों की पहचान करना।
- (x) ग्रीवा लंबाई मापना।
- (xi) प्रतिरूप रिकार्ड करना।
- (xii) नोट कीपिंग और प्रलेखन।

(ख) प्रारंभिक गर्भावस्था

- (i) व्यवहार्यता की पुष्टि करना।
- (ii) गर्भावस्था तारीख।
- (iii) कॉरपस ल्यूटियम कृमिकोष का निदान करना।
- (iv) बहुत गर्भावस्था का निदान करना।
- (v) जरायु/युग्मता निर्धारित करना।
- (vi) पश्चगमन बीजाण्डासन हिमेटोमा का पता लगाना।
- (vii) एम्ब्रियोनिक गर्भावस्था का निदान करना।
- (viii) असफल गर्भपात का निदान करना।
- (ix) गर्भधारण के निदान अवधारित परिणाम।
- (x) विफल गर्भावस्था के लिए परामर्श।
- (xi) एकटॉपिक गर्भावस्था का निदान करना।

(ग) अतिरज

- (i) उप-श्लेष्मल फाइब्रॉयड की पहचान करना
- (ii) इंटरमुरल फाइब्रॉयड की पहचान करना
- (iii) सबसिरस और पेडंकुलेटेड फाइब्रॉयड की पहचान करना
- (iv) एडेनोमायोसिस की पहचान करना

(घ) रजोनिवृत्ति के पश्चात और अंतर मासिक धर्म संबंधी रक्तस्राव

- (i) एंडोमेट्रियल मोटाई मापना
- (ii) एट्रोफिक एंडोमेट्रियम की पहचान करना
- (iii) हाइपरप्लास्टिक एंडोमेट्रियम की पहचान करना
- (iv) एंडोमेट्रियम पॉलिप्स की पहचान करना

(v) कार्यात्मक अंडाशय के ट्यूमरों की पहचान करना

(ङ) श्रोणीय पुंज

- (i) गर्भाशय के रूप में पुंज की पहचान करना
- (ii) यूनिवर्क्युलर अण्डाशय पुंज की पहचान करना
- (iii) जटिल अण्डाशय पुंज की पहचान करना
- (iv) एसाइट्स की पहचान करना

(च) प्रजनन औषधि

- (i) एंडोमेट्रियम में साइक्लिकल परिवर्तनों की पहचान करना
- (ii) अण्डाशय में साइक्लिकल परिवर्तनों की पहचान करना
- (iii) पॉलिसिस्टिक अण्डाशय की पहचान करना
- (iv) गर्भाशय में अंतः-गर्भाशय उपकरण या अंतः-गर्भाशय प्रणाली की स्थिति का पता लगाना।

(छ) अतिरिक्त-श्रोणीय स्कैन

- (i) इम्प्लानॉन की सामान्य स्थिति की पहचान करना
- (ii) गैर-पल्पेबल इम्प्लानॉन का पता लगाना

(ज) विषय-वस्तु – भाग एक

- (i) इस्ट्रुमेंटेशन और मूलभूत सिद्धांत
- (ii) व्यावहारिक अनुप्रयोगों के लिए भौतिक विज्ञान
- (iii) जांच की तकनीकें
- (iv) उदरपारीय और यौनिक-पारीय स्कैन

1. ज्ञान आधारित – (1) अल्ट्रासाउंड जांच के सिद्धांत

- (i) भौतिकशास्त्र
 - (ii) सुरक्षा
 - (iii) मशीन का सेटअप और प्रचालन
 - (iv) मरीज की देखभाल
 - (v) रिपोर्ट लेखन के सिद्धांत
 - (vi) सहमति
- (2) अकाउस्टिक्स, ऐटेनुएशन, अंतर्लयन, परावर्तन, ध्वनि की गति से सुसंगत सिद्धांत;
- (3) नाड़ी वाले और निरंतर तरंग अल्ट्रासाउंड बीमों का तंतुओं पर प्रभाव; जीवविज्ञान संबंधी प्रभाव; तापीय और गैर-तापीय, सुरक्षा;
- (4) चिकित्सा उपकरणों के मूलभूत प्रचालन सिद्धांत
- (5) ट्रांसड्यूसरों के प्रकार।

2. कौशल संबंधी सेट – (1) अल्ट्रासाउंड नियंत्रणों का इस्तेमाल:

- (i) सिगनल प्रोसेसिंग – ग्रे स्केल – टाइम गेन कंपनसेशन, अकाउस्टिक आउटपुट संबंध
- (ii) आर्टफैक्ट्स, व्याख्या और बचना – रिवरबेरेटेशन – साइड लॉब्स – एज संबंधी प्रभाव – पंजीकरण – शैडोइंग – वृद्धि
- (iii) मापन प्रणालियां – लिनियर, परिधि, क्षेत्रफल और आयत – डोपलर अल्ट्रासाउंड – प्रवाह

- (iv) प्रतिरूपण रिकार्डिंग, भंडारण और विश्लेषण
- (v) एकाउस्टिक आउटपुट सूचना की व्याख्या और इसकी नैदानिक सुसंगतता
- (vi) मरीज संबंधी सूचना और तैयारी संबंधी रिपोर्टिंग
- (झ) **विषय—वस्तु – भाग दो**
- (i) उदर, श्रोणि और फेटस का अल्ट्रासाउंड शरीररचना—विज्ञान
- (ii) उदर—श्रोणि पर यथा अनुप्रयुक्त, संक्षेप में भ्रूण—विज्ञान या रोग शरीरक्रिया—विज्ञान
1. **ज्ञान आधारित**
- (i) पूरे रजोधर्म चक्र में एंडोमेट्रियम, मायोमेट्रियम और अंडाशयों के सामान्य अल्ट्रासाउंड दिखावटों का ज्ञान
- (ii) गर्भाशय, एंडोमेट्रियम मापने के लिए तकनीकों को समझना
- (iii) अंडाशयों और ऐडनेक्सा की सामान्य अल्ट्रासाउंड दिखावटों का ज्ञान
- (क) **स्त्रीरोग—विज्ञान संबंधी असामान्यताएं : गर्भाशय**
- (i) फाइब्रॉयड्स और एडेनोमियोसिस की अल्ट्रासाउंड दिखावटों का ज्ञान
- (ii) एंडोमेट्रियल रोग—विज्ञान का ज्ञान
- (iii) अंतः—गर्भाशय गर्भनिरोधक यंत्र का अंतःस्थापन
- (ख) **स्त्रीरोग—विज्ञान संबंधी असामान्यताएं : अंडाशय घाव**
- (i) अंडाशय और पारा—अंडाशय घावों के विभेदक निदान का ज्ञान
- (ii) सामान्य अंडाशय संबंधी दिखावटों जैसे पॉलिसिस्टिक अंडाशय के विशेष प्रकार के अल्ट्रासाउंड निष्कर्षों का ज्ञान
- (iii) अंडाशय के कैंसर की अल्ट्रासाउंड संबंधी विशेषताओं और उन्नत रोग की विशेषताओं का ज्ञान
- (ग) **अतिरिक्त अंडाशय के घाव**
- (i) चिरकालिक श्रोणीय दर्द में अल्ट्रासाउंड संबंधी जांच करने के सिद्धांतों का ज्ञान
- (ii) एंडोमेट्रियोसिस और श्रोणीय अभिवृद्धि की विशेष प्रकार की आकृति—विज्ञान संबंधी विशेषताओं का ज्ञान
- (घ) **उदर की अल्ट्रासोनोग्राफी संबंधी शरीररचना—विज्ञान**
- (i) ज्ञान—आधारित – सामान्य दिखावट
- (ii) आमतौर पर पाई जाने वाली असामान्यताएं
- (iii) बड़े पैमाने पर घावों की रिपोर्टिंग
- (iv) माप – विशिष्ट स्थान और उचित तकनीकें
2. **कौशल संबंधी सेट**
- (i) गर्भाशय, अंडाशयों, ऐडनेक्सा और डगलस के पाउच की जांच और निरंतर रूप से पता लगाने की योग्यता।
- (ii) संयुक्त पिल और अन्य हारमोन संबंधी तैयारियों के प्रति एंडोमेट्रियल प्रत्युत्तरों और साइक्लिकल एंडोमेट्रियल परिवर्तनों का मूल्यांकन करने की योग्यता।
- (iii) सही—सही एंडोमेट्रियल मोटाई मापने और गर्भाशय के आकार का मूल्यांकन करने की योग्यता।

- (iv) मासिक धर्म चक्र के दौरान अंडाशय और ऐडनेक्स में कार्यरत परिवर्तनों और अंडाशय के आयतन का मूल्यांकन करने की योग्यता : फॉलिक्यूलर दिखावटें, कोरपोरा लुटिया के आकृति-विज्ञान में भिन्नता, कार्यात्मक कृमिकोष, डगलस के पाउच में फ्लुइड।
- (v) गर्भाशय के फाइब्रॉयडों का निदान करने, उनका आकार मापने और एंडोमेट्रियल कैविटी के साथ उनके संबंध का मूल्यांकन करने, नैदानिक संलक्षणों के साथ अल्ट्रासाउंड निष्कर्षों का सह-संबंध बैठाने की योग्यता।
- (vi) फाइब्रॉयड्स और ऐडेनोमायोसिस का मूल्यांकन करने और जहां कहीं संभव हो, उनमें अंतर करने की योग्यता।
- (vii) नैदानिक संदर्भ में एंडोमेट्रियल मोटाई के माप की व्याख्या करने की योग्यता।
- (viii) स्थानीय और वैश्विक एंडोमेट्रियल मोटाई के बीच अंतर करने की योग्यता।
- (ix) अंतःगर्भाशय, गर्भनिरोधक उपकरण और गर्भाशय के अंदर इसकी स्थिति की पहचान करने में योग्य होना।
- (x) श्रोणीय घाव के मूल का सही-सही पता लगाने और नैदानिक संदर्भ में इसकी व्याख्या करने की दृष्टि से पल्पेशन के साथ संयुक्त अल्ट्रासाउंड जांच करने की योग्यता।
- (xi) औसत व्यास और आयतन सहित ऐडनेक्सल घावों के आकार का मूल्यांकन करने की योग्यता।
- (xii) एक प्रणालीबद्ध तरीके से ऐडनेक्सल घावों के मूल्यांकन करने की योग्यता। ऐडनेक्सल घावों की सोनोग्राफिक विशेषताओं का वर्णन करने के लिए मानकीकृत शब्दों और परिभाषाओं की जानकारी।
- (xiii) केवल वस्तुनिष्ठ मूल्यांकन पर आधारित सामान्य कार्यात्मक और हेमोरजिक सिस्टों, पॉलिसिस्टिक अंडाशयों, डरमॉइड्स तथा एंडोमेट्रियोमास का निदान करने की योग्यता।
- (xiv) असामान्य श्रोणीय फ्लुइड/एसाइट्स को पहचानने की योग्यता।
- (xv) श्रोणीय दर्द के विभेदक निदान में सुविधा प्रदान करने की दृष्टि से एक अच्छा नैदानिक इतिवृत्त लेने की योग्यता।
- (xvi) योनिकपारीय अल्ट्रासाउंड स्कैन पर डगलस के पाउच सहित श्रोणीय अंगों की कोमलता और गतिशीलता का मूल्यांकन करने की योग्यता।
- (xvii) अल्ट्रासाउंड स्कैन पर अंडाशय ऐंडोमेट्रियोमास, हाइड्रोसलपिंग्स, श्रोणीय अति वृद्धियों के परिणाम और उदरीय सुडोसिस्ट की पहचान करने की योग्यता।

(क) (1) स्त्रीरोग-विज्ञान संबंधी अल्ट्रासाउंड

- (i) सही-सही माप
- (ii) स्वीकार किए गए सैजिटल प्लेन में एंडोमेट्रियम।
- (iii) ऐडनेक्सल घावों का मूल्यांकन : सामान्य अंडाशयों, सामान्य फैलोपियन ट्यूब, सामान्य श्रोणीय फ्लुइड की सही-सही पहचान।
- (iv) सामान्य और असामान्य ऐडनेक्सल संरचनाओं का सही-सही माप : माध्यमिक व्यास और आयतन।
- (v) सामान्य एंडोमेट्रियल और मायोमेट्रियल असामान्यताओं की पहचान करना और मूल्यांकन करना।
- (vi) अंडाशय संबंधी सामान्य असामान्यताओं की पहचान करना और मूल्यांकन करना।
- (vii) जटिल अंडाशय पुंजों की पहचान करना और मूल्यांकन करना और समुचित ढंग से संदर्भित करना।
- (viii) मरीजों को सामान्य परिणाम संसूचित करना।
- (ix) मरीजों को समसुचित असामान्य परिणाम संसूचित करना।

- (x) परिणामों की व्याख्या और लिखित सारांश प्रस्तुत करना।
- (xi) संरचित लिखित रिपोर्ट जारी करना।
- (xii) व्याख्या या समुचित अनुवर्तन की व्यवस्था करना।
- (2) **कौशल संबंधी सेट**
- (i) उदरीय संरचना की निरंतर पहचान करने और जांच करने की योग्यता
- (ii) सामान्य की पहचान करना।
- (iii) सामान्य रोगविज्ञान संबंधी घावों की पहचान करना।
- (iv) आगे राय कब और कैसे प्राप्त करनी।
- (ख) **यकृत और तिल्ली या पित्तीय प्रणाली या पित्ताशय या अग्नाशय**
- मरीज की तैयारी और स्कैनिंग की तकनीकें
- सोनोग्राफिक शरीररचना—विज्ञान
- (i) **यकृत** — यकृत रोग, वर्धित यकृत, ग्रेड्स समाप्त करना। तीव्र हेपाटाइटिस, सिरॉसिस और पोर्टल हाइपरटेंशन, फोकल मास घाव — कृमिकोषीय घाव या ठोस घाव।
- (ii) **तिल्ली** — स्पलिनोमेगाली या फोकल स्पलेनिक मास — सॉलिड मास, कृमिकोष, सबक्रैनिक एब्सेस
- (iii) **पित्ताशय** — कोलेलीथाइसिस या कैलकुलि या ऐटिपिकल कैलकुलस या पिटफाल्स से भरा हुआ पित्ताशय।
- (iv) **अग्नाशय** — सूजन वाला तीव्र पैनक्रियाटाइटिस (पैनक्रियाटिक और एक्स्ट्रापैनक्रियाटिक अभिव्यक्ति)
- (क) सिडोसिस्ट या चिरकालिक पैनक्रियाटाइटिस या अर्बुद (ठोस या कृमिकोषीय दिखाई देने वाला)
- (ग) **प्रॉस्टेट**
- (i) सोनोग्राफिक शरीररचना—विज्ञान (प्रॉस्टेट, सेमिनल वेसिकल्स)
- (ii) तकनीक (उदरपारीय एप्रोच)
- (iii) केंद्रीय भाग या परिधीय भाग का पता लगाना या प्रॉस्टेट के आयतन के माप का पता लगाना।
- (iv) रोग—विज्ञान
- (क) सुसाध्य अति वृद्धि प्रॉस्टैटिस
- (ख) प्रॉस्टैटिक एबसेस, प्रॉस्टेट का कैंसर
- (घ) **मूत्र मार्गीय प्रणाली**
- गुर्दे और मूत्रवाहिनी — स्कैनिंग तकनीक
- (ङ) **गुर्दे**
- (i) सोनोग्राफिक शरीररचना—विज्ञान
- (ii) इकोजेनेसिटी, कॉर्टिकोमेडोलरी सीमांकन, रीनल साइनस, हाइपरट्रॉफाइड
- (iii) बर्टिन का कॉलम
- (iv) मूत्रवाहिनियों में जन्मजात असामान्यताएं (एजेनेसिस, एक्टोपिया, डुप्लेक्स, कलेक्टिंग सिस्टम और यूरेट्रोसेल)
- (v) कैलकुलस का हाइड्रोनेफ्रोसिस या गुर्दे की पथरी या संक्रमण या अर्बुद या पथरी की नकल।
- (vi) सोनोग्राफिक दिखावट या ऐंज्योलिकोमा का नेफ्रोकेल्सिनोसिस या पिग्लोनेफ्रोसिस, यनिफ्रोसिस, रीनल और पेरिनेफ्रिक एब्सेस, चिरकालिक येलोनेफ्रिटिस या तपेदिक या रीनल सेल कार्सिनोमा, स्पेक्ट्रम।

(vii) सुसाध्य कृमिकोषीय घाव (सामान्य प्रान्तस्थ कृमिकोष, जटिल प्रान्तस्थ कृमिकोष, पारापैल्विक कृमिकोष)।

(viii) बहुत कृमिकोषीय गुर्दा रोग।

(च) मूत्राशय

(i) पित्ताशय की पथरी, पित्ताशय आयतन का माप

(ii) पित्ताशय वाल (मोटार्ई मापने की तकनीक)

(iii) पित्ताशय मास, कृमिकोषीयशोथ

(अ) विषय—वस्तु — भाग तीन : सभी तिमाहियों में प्रसूतिविज्ञान स्कैनिंग के मूल सिद्धांत और व्याख्या — 3
मॉड्यूल्स

I. मॉड्यूल 1 — प्रारंभिक गर्भावस्था : प्रारंभिक गर्भावस्था की उदरपारीय अल्ट्रासाउंड जांच

मॉड्यूल के उद्देश्य:

(i) प्रशिक्षणार्थियों को आदर्श मशीन सेटअप और उदरपारीय जांच के इस्तेमाल की जानकारी होना (जांच अभिमुखीकरण सहित)

(ii) 8-12 सप्ताहों के बीच की परिपक्व अवधि के उदरपारीय स्कैनिंग का इस्तेमाल करके एक मूलभूत 'डेटिंग स्कैन' करने में सक्षमता प्राप्त करना।

(iii) इस संबंध में एक तीव्र जागरूकता को प्रोत्साहित करना कि प्रारंभिक गर्भावस्था में उदरपारीय मार्ग का इस्तेमाल करके कैसे देखा जा सकता है और कैसे नहीं देखा जा सकता।

(क) ज्ञानार्जन संबंधी परिणाम

उचित ढंग से निम्नलिखित कार्य करने में समर्थ होना:

(i) अंत:गर्भाशय गर्भावस्था की अल्ट्रासाउंड संबंधी पहचान।

(ii) हृदय संबंधी गतिविधि की अल्ट्रासाउंड संबंधी पहचान।

(iii) मूलभूत प्रथम तिमाही की जीवमिति

(iv) आवश्यकता के अनुसार रेफरल

(ख) ज्ञान आधारित

(i) सामान्य आरंभिक गर्भाशय की रूपात्मक विशेषताएं समझना।

(ii) पहली तिमाही में हृदयीय गतिविधि का शरीरक्रिया-विज्ञान समझना।

(iii) परिपक्वता कोश व्यास और क्राउन-रम्प लंबाई मापों के सिद्धांत समझना।

(iv) सामान्य अंत:गर्भाशयी परिपक्वता कोश और कृत्रिम कोश के बीच अंतरों के सिद्धांत समझना।

(v) ऐसी नैदानिक समस्याएं समझना जो हो सकती हैं अर्थात् खाली पित्ताशय, मोटी महिलाएं और बड़े गर्भाशय फाइब्रोइड्स वाली महिलाएं।

(vi) यह जानना कि योनिकपारीय स्कैन के लिए कब संदर्भित किया जाना है ?

(ग) बहुलता का निदान समझना

(i) गर्भावस्था, जरायु और ऐमनियोनिसिटी।

(ii) गर्भपात का निदान करने के मापदंड समझना।

(iii) इकॉपिक गर्भावस्था के अल्ट्रासाउंड निदान के सिद्धांत समझना।

(iv) अज्ञात स्थान की गर्भावस्था वाली महिलाओं का प्रबंधन समझना।

(v) चर्चण के संदेह वाले नैदानिक और अल्ट्रासाउंड निष्कर्षों का ज्ञान।

(घ) कौशल संबंधी सेट

(i) एक सामान्य स्थिति की विशेषताओं का पता लगाने की योग्यता।

- (ii) परिपक्वता कोश और उसके अंतःगर्भाशय स्थान की पुष्टि करना।
- (iii) परिपक्वता कोश का आकार और क्राउन-रम्प लंबाई मापने की योग्यता।
- (iv) बी-मोड का इस्तेमाल करके प्रारंभिक हृदयीय गतिविधि का पता लगाने की योग्यता।
- (v) फीटल संख्या का पता लगाना।
- (vi) आरंभिक भ्रूणीय मृत्यु का अल्ट्रासाउंड निदान।
- (vii) संदिग्ध इकॉपिक गर्भावस्था वाली किसी महिला का अल्ट्रासाउंड मूल्यांकन।
- (viii) विश्वास के साथ बहुल गर्भावस्था का निदान स्थापित करने और जरायु तथा ऐमनियोनिस्सिटी का मूल्यांकन करने की योग्यता।
- (ix) परिपक्वता कोश आकार और/या क्राउन-भ्रूणीय मृत्यु का निदान करने की योग्यता। अपूर्ण गर्भपात वाली महिलाओं में गर्भधारण अवधारित फलों की पहचान, मूल्यांकन करना और मापना।
- (x) नैदानिक रूपात्मक और जीवरसायन संबंधी निष्कर्षों का सहसंबंध स्थापित करने की योग्यता।
- (xi) एक क्रमबद्ध और प्रभावी तरीके से एडनेक्सा का मूल्यांकन करने और एक नैदानिक संदर्भ में निष्कर्षों की व्याख्या करने की योग्यता। कोरपोरा ल्यूक्टिया का स्थान और संख्या का पता लगाना।
- (xii) नलाकार और गैर-नलाकार इकॉपिक गर्भावस्था की पहचान करना और पीतक कोश या किसी भ्रूण की मौजूदगी की जांच करना। आलस के पाउच में पलुड की मात्रा और गुणवत्ता का मूल्यांकन करना।
- (xiii) निदान की पुष्टि और अन्य प्रबंधन के साथ सहायता प्राप्त करना।
- (xiv) सक्षमता की सीमाओं का अभिज्ञान।
- (xv) अपनी योग्यता की सीमाएं जानना और यह जानना कि आगे राय, मापने के सही-सही प्रलेखन के लिए कब संदर्भित करना है।
- (xvi) लिखित सारांश प्रस्तुत करना और परिणामों की व्याख्या करना।
- (xvii) मरीजों को सामान्य परिणाम संसूचित करना।
- (xviii) मरीजों को असामान्य परिणाम संसूचित करना।
- (xix) समुचित रेफरल, अनुवर्तन या हस्तक्षेप की व्यवस्था करना।

II. मॉड्यूल 2 – आधारभूत : भ्रूण आकार, द्रव और बीजाण्डासन का अल्ट्रासाउंड मूल्यांकन

(क) मॉड्यूल के उद्देश्य:

अवस्थिति, प्रस्तुतीकरण, बीजाण्डासन आकार और द्रव मूल्यांकन सहित दिन प्रतिदिन की प्रसूति संबंधी प्रैक्टिस में संभावित रूप से उपयोगी मूलभूत सक्षमताएं प्राप्त करना। मूलभूत जीवमिति तकनीकें पढ़ाई जाएंगी परंतु 'स्वतंत्र प्रैक्टिस' के स्तर की सक्षमता की आवश्यकता नहीं है।

(ख) ज्ञान आधारित:

1. जीवमिति

- (i) विभिन्न अवस्थितियों और प्रस्तुतीकरणों की जागरूकता।
- (ii) भ्रूणीय वृद्धि या शरीरक्रिया-विज्ञान।
- (iii) रोग-विज्ञान
 - (क) अनुपात
 - (ख) अनुमानित भ्रूणीय भार
 - (ग) भ्रूण

- (iv) भ्रूणीय जीवमिति या शरीर रचना विज्ञान संबंधी सीमा चिन्ह या संदर्भ चार्ट या व्याख्या (परिवर्तिता सहित)
- (v) परिकलन और परिमाण
- (क) अनुपात
- (ख) आकलित भ्रूणीय भार

2. ऐमनियोटिक फ्लुइड

- (i) ऐमनियोटिक फ्लुइड की मात्रा या शरीरक्रिया-विज्ञान या परिपक्वता या रोग-विज्ञान के साथ परिवर्तन।
- (ii) अल्ट्रासाउंड माप।
- (iii) व्यक्तिपरक बनाम विषयपरक।
- (iv) मैक्स वर्टिकल पॉकेट या ऐमनियोटिक फ्लुइड इंडेक्स।
- (v) संदर्भ चार्ट।
- (vi) व्याख्या (परिवर्तिता सहित)।
- (vii) ऑलिगोहाइड्रैमनियोस।
- (viii) परिभाषा और एसोसिएशन्स।
- (ix) पॉलिहाइड्रैमनियोस।
- (x) परिभाषा और एसोसिएशन्स।

3. बीजाण्डासन

- (i) स्थान का अल्ट्रासाउंड मूल्यांकन।
- (ii) उदरपारीय और योनिकपारीय अल्ट्रासाउंड के लिए संकेत।
- (iii) बीजाण्डासन प्राएविया।
- (iv) वर्गीकरण
- (v) प्रबंधन

(ग) कौशल संबंधी सेट

- (i) द्वि-पार्श्विक व्यास, सिर की परिधि, उदरीय परिधि, ऊर्वस्थि लंबाई को सही-सही मापना।
- (ii) चार्ट प्लॉटिंग सहित मापों और अवलोकनों का सही-सही प्रलेखन।
- (iii) द्रव मात्रा का मूल्यांकन।
- (iv) अल्ट्रासाउंड का इस्तेमाल करके ऐमनियोटिक फ्लुइड इंडेक्स मात्रा और अधिकतम वर्टिकल गहनता का मूल्यांकन करने और उनकी व्याख्या करने में योग्य होना।
- (v) ऐमनियोटिक फ्लुइड इंडेक्स को मापना।
- (vi) द्रव मात्रा को मापना।
- (vii) अधिकतम वर्टिकल पूल गहराई को मापना।
- (viii) उदरपारीय मार्ग का इस्तेमाल करके बीजाण्डासन की स्थिति का मूल्यांकन करना।
- (ix) समुचित अनुवर्तन या रेफरल की व्यवस्था करना।
- (x) लिखित सामग्री प्रस्तुत करना और परिणामों की व्याख्या।
- (xi) मरीजों को सामान्य परिणाम संसूचित करना।
- (xii) अपनी सक्षमता की सीमाओं की जागरूकता बनाए रखना।

III. मॉड्यूल 3 – माध्यमिक : सामान्य भ्रूणीय शरीररचना-विज्ञान का अल्ट्रासाउंड

(क) मॉड्यूल के उद्देश्य:

इस मॉड्यूल का समग्र उद्देश्य यह सुनिश्चित करना है कि प्रशिक्षणार्थी भ्रूणीय शरीररचना-विज्ञान के संकेतों को समझे, सुरक्षित ढंग से और सक्षमतापूर्वक स्कैन करने और स्कैन के निष्कर्षों की रिपोर्टिंग करने में योग्य हों।

(ख) ज्ञानार्जन परिणाम

प्रशिक्षणार्थी निम्नलिखित में योग्य होना चाहिए:

- (i) उचित नैदानिक इतिवृत्त लेना।
- (ii) मरीज की गोपनीयता, सांस्कृतिक और धार्मिक आवश्यकताओं के संबंध में समुचित वातावरण में अल्ट्रासाउंड जांच करना।
- (iii) भ्रूणीय और इसके वातावरण की सामान्य रूपात्मक अल्ट्रासाउंड दिखावटों को समझना।
- (iv) सामान्य भ्रूणीय शरीररचना-विज्ञान का निदान करना।
- (v) सामान्य शरीररचना-विज्ञान संबंधी भिन्नताओं से परिचित होना।
- (vi) उनकी सक्षमता की सीमाएं और जहां समुचित हो, सलाह प्राप्त करने की आवश्यकता को समझना।
- (vii) मरीजों को परिणाम संसूचित करना।
- (viii) एक संरचित रिपोर्ट लिखना।
- (ix) यह सीखना कि जहां समुचित हो, मरीजों को कब रेफर करना है।

(ग) ज्ञान आधारित

- (i) मानक भ्रूणीय मापन, द्वि-पार्श्विक व्यास, सिर की परिधि, उदरीय परिधि, ऊर्वस्थि लंबाई मापने के लिए शरीररचना-विज्ञान संबंधी सीमाचिह्न।
- (ii) भ्रूणीय संरचना की सामान्य दिखावट का अभिज्ञान और भिन्न-भिन्न परिपक्वताओं पर भिन्न-भिन्न दिखावट का मूल्यांकन करना।
- (iii) सामान्य असामान्यताओं की अभिज्ञान दर जानना।
- (iv) ऐसे रूप में, जैसा वे समझते हैं, मरीजों को आवश्यक सूचना उपलब्ध करना।
- (v) माता-पिता को दी गई सूचना और स्कैन निष्कर्ष अन्य स्वास्थ्य व्यवसायविदों को संसूचित करना।

(घ) कौशल संबंधी सेट

- (i) गर्भाशय के अंदर भ्रूण की स्थिति का पता लगाना।
- (ii) पता लगाने के उद्देश्य से परीक्षण करने में योग्य होना।
- (iii) भ्रूणीय संरचना।
- (iv) एक इष्टतम विषम स्कैन में वर्णन की गई विशेषताओं का स्थायी और व्यवस्थित ढंग से पता लगाने में योग्य होना। गुर्दे की श्रोणी के ट्रांससेरेबेलर व्यास, वेंट्रीकुलर आट्रियल व्यास और एंटेरो-पोस्टेरियर वय सहित, मानक भ्रूणीय माप, द्वि-पार्श्विक व्यास, सिर की परिधि, उदरीय परिधि, ऊर्वस्थि लंबाई लेने में योग्य होना।
- (v) अंडाबीजासन के स्थान का पता लगाना।
- (vi) सक्षमता की सीमाओं का अभिज्ञान।
- (vii) यदि संरचनाएं स्पष्ट रूप से नहीं देखी गई हैं तो पुनः स्कैन के लिए मरीजों से समुचित ढंग से दोबारा बुलाना।
- (viii) द्वि-पार्श्विक व्यास, सिर की परिधि, उदरीय परिधि, ऊर्वस्थि की लंबाई, तिरछा प्रमस्तिष्कीय व्यास और प्रमस्तिष्कीय निलयों का पार्श्विक आट्रियल व्यास का सही-सही माप लेना।
- (ix) सिर और चेहरे की सामान्य शरीररचना की पुष्टि करना।
- (x) रीढ़ की हड्डी की सामान्य शरीररचना की पुष्टि करना।
- (xi) हृदय और वक्ष की सामान्य शरीररचना की पुष्टि करना।

- (xii) उदर और सामान्य शरीररचना की पुष्टि करना।
- (xiii) अंगों की सामान्य शरीररचना पुष्टि करना।
- (xiv) असामान्यता स्कैन पूरा करना
- (xv) सामान्य संरचनात्मक असामान्यताओं का अभिज्ञान।
- (xvi) अण्डाबीजासन का पता लगाना और मूल्यांकन करना।
- (xvii) द्रव की मात्रा का अनुमान लगाना।
- (xviii) माता-पिता को सूचना उपलब्ध कराना।
- (xix) सामान्य स्कैन निष्कर्ष।
- (xx) अल्ट्रासाउंड की सीमाएं और विशेषताएं।
- (xxi) इस तकनीक की सीमाओं से परिचित होना और यह जानना कि कब रेफर किया जाना है।
- (xxii) माता-पिता के साथ, किसी असामान्यता की संभावना और आगे किसी राय की आवश्यकता के बारे में चर्चा करने में समर्थ होना।

(ट) विषय-वस्तु – भाग चार

1. गिरते शिशु लिंग अनुपात की समस्या और गर्भधारण पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम के उपबंधों का परिचय

1961 की जनगणना से शिशु लिंग अनुपात में निरंतर गिरावट, देश के लिए चिंता का मामला है। 1961 की जनगणना में 976 से आरंभ होकर, यह 2001 में गिरकर 927 हो गया। 2011 की जनगणना के अनुसार, शिशु लिंग अनुपात (0-6 वर्ष), 2001 की जनगणना में रिकार्ड किए गए प्रति हजार लड़कों में 927 लड़कियों की तुलना में और गिरकर 919 हो गया। शिशु लिंग अनुपात में 18 राज्यों और 3 संघ राज्य क्षेत्रों में गिरावट आई सिवाय हिमाचल प्रदेश (909), पंजाब (846), चंडीगढ़ (880), हरियाणा (834), मिजोरम (970), तमिलनाडु (943), कर्नाटक (948), दिल्ली (871), गोवा (942), केरल (964), गुजरात (890), अरुणाचल प्रदेश (972) और अंदमान और निकोबार द्वीपसमूह (968), जिनमें सीमांतक सुधार दर्शाया गया। बाकी 21 राज्यों/संघ राज्य क्षेत्रों ने गिरावट दर्शाई।

“गर्भधारण पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम”

“गर्भधारण से पूर्व या उसके पश्चात् लिंग चयन के प्रतिषेध का और आनुवंशिकी अप्रसामान्यताओं या मेटाबोली विकारों या गुणसूत्री अप्रसामान्यताओं या कतिपय जन्मजात विकृतियों या लिंग-सहलग्न विकारों का पता लगाने के प्रयोजनों के लिए प्रसवपूर्व निदान-तकनीकों के विनियमन का तथा लिंग अवधारण के लिए ऐसी तकनीकों के, जिनके कारण स्त्री-लिंगी भ्रूणवध हो सकता हो, दुरुप्रयोग के निवारण का तथा उनसे संबंधित या उनके आनुवंशिक विषयों का उपबंध करने के लिए अधिनियम।”

2. गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 का कार्यान्वयन

प्रसवपूर्व निदान तकनीक (विनियमन और दुरुपयोग निवारण) अधिनियम का अधिनियमित 20 सितंबर, 1994 को किया गया था और यह अधिनियम पुनः 2003 में संशोधित किया गया था। गर्भधारण से पूर्व या उसके पश्चात् लिंग चयन के प्रतिषेध का और आनुवंशिकी अप्रसामान्यताओं या मेटाबोली विकारों या गुणसूत्री अप्रसामान्यताओं या कतिपय जन्मजात विकृतियों या लिंग-सहलग्न विकारों का पता लगाने के प्रयोजनों के लिए प्रसवपूर्व निदान-तकनीकों के विनियमन का तथा लिंग अवधारण के लिए ऐसी तकनीकों के, जिनके कारण स्त्री-लिंगी भ्रूणवध हो सकता हो, दुरुप्रयोग के निवारण का तथा उनसे संबंधित या उनके आनुवंशिक विषयों का उपबंध करने के लिए अधिनियम।

इस अधिनियम का कार्यान्वयन, निम्नलिखित कार्यान्वयन निकायों के माध्यम से किया जाता है:

- (i) केंद्रीय पर्यवेक्षीय बोर्ड।
- (ii) राज्य पर्यवेक्षीय बोर्ड और संघ राज्य क्षेत्र पर्यवेक्षीय बोर्ड।
- (iii) पूरे राज्य या उसके किसी भाग या संघ राज्य क्षेत्र का समुचित प्राधिकरण।
- (iv) राज्य सलाहकार समिति और संघ राज्य क्षेत्र की सलाहकार समिति।
- (v) प्रत्येक समुचित प्राधिकरण से संबद्ध नामनिर्दिष्ट क्षेत्र (राज्य के भाग) के लिए सलाहकार समिति।
- (vi) जिला और उप-जिला स्तरों पर समुचित प्राधिकारी।

3. **रजिस्ट्रीकरण :**
जिले का समुचित प्राधिकारी, अल्ट्रासाउंड नैदानिक सुविधाओं के रजिस्ट्रीकरण के लिए जिम्मेवार है।
4. **आवेदन शुल्क:**
 - (1) आनुवंशिकी सलाह केंद्र, आनुवंशिकी प्रयोगशाला, आनुवंशिकी क्लिनिक, अल्ट्रासाउंड क्लिनिक या प्रतिरूपण केंद्र के लिए 25000.00 रुपए।
 - (2) किसी संस्थान, अस्पताल, नर्सिंग होम या आनुवंशिकी सलाह केंद्र की सेवाएं संयुक्त रूप से उपलब्ध कराने वाले किसी स्थान, आनुवंशिकी प्रयोगशाला, आनुवंशिकी क्लिनिक, अल्ट्रासाउंड क्लिनिक या प्रतिरूपण केंद्र या उनके संयोजन के लिए 35000.00 रुपए।
5. **अल्ट्रासाउंड केंद्र पर आदेशात्मक प्रदर्शन:**
 - (1) गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक (पीसी और पीएनडीटी) प्रमाणपत्र: गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक अधिनियम के अधीन रजिस्ट्रीकृत प्रत्येक क्लिनिक या सुविधा या अस्पताल आदि के लिए यह आवश्यक है कि वह उस केंद्र, प्रयोगशाला या क्लिनिक में किसी सुस्पष्ट स्थान पर रजिस्ट्रीकरण का प्रमाणपत्र प्रदर्शित करे।
 - (2) अंग्रेजी और स्थानीय भाषा में साइनेज, बोर्ड या बैनर, जिसमें यह दर्शाया गया हो कि संबंधित सुविधा पर भ्रूण का लिंग नहीं बताया जाता।
 - (3) प्रत्येक अल्ट्रासाउंड केंद्र में गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक अधिनियम की प्रति उपलब्ध होनी चाहिए।
6. **रजिस्ट्रीकरण का नवीकरण:**
 - (1) रजिस्ट्रीकरण का प्रत्येक प्रमाणपत्र 5 वर्ष की अवधि के लिए विधिमाम्य होता है।
 - (2) रजिस्ट्रीकरण का नवीकरण, रजिस्ट्रीकरण के प्रमाणपत्र की समाप्ति की तारीख से 30 दिन पहले किया जाना चाहिए।
7. **रिकार्ड का आज्ञापक रखरखाव :** रजिस्टर, जिसमें क्रम में दर्शाए गए हों –
 - (1) प्रसवपूर्व नैदानिक प्रक्रिया या परीक्षण कराने वाली महिलाओं या पुरुषों के नाम और पते;
 - (2) उनके पतियों/पत्नियों या पिताओं के नाम;
 - (3) तारीख, जिसको उन्होंने उस परामर्श, प्रक्रिया या परीक्षण के लिए पिछली बार रिपोर्ट किया;
 - (4) प्रत्येक महीने की 5 तारीख से पहले नियमित रूप से सक्षम प्राधिकारी को एक मासिक रिपोर्ट प्रस्तुत की जानी चाहिए। सक्षम प्राधिकारी के हस्ताक्षर वाली उन मासिक रिपोर्टों की एक प्रति, जिसमें प्राप्ति की अभिस्वीकृति दी गई हो, सुरक्षित रखी जानी चाहिए।
8. **सम्यक् रूप से भरे गए फार्मों पर निम्नलिखित का प्रतिरक्षण:**
 - (i) फार्म एफ
 - (ii) डाक्टरों की रेफरल पर्चियां
 - (iii) सहमति के फार्म
 - (iv) सोनोग्राफिक प्लेटों या स्लाइडें
9. **रिकार्ड भंडारण :**
उपर्युक्त सभी रिकार्ड 2 वर्ष तक सुरक्षित रखे जाने चाहिए।
10. **समुचित प्राधिकारी की शक्तियां:**
 - (1) समुचित प्राधिकारी, तलाशी और जब्ती के लिए किसी क्लिनिक या सुविधा में निर्बाध रूप से प्रवेश कर सकता है।
 - (2) सहमति फार्मों, रेफरल पर्चियों, फार्मों, सोनोग्राफिक प्लेटों या स्लाइडों और उपस्कर जैसे अल्ट्रासोनोग्राफी मशीनों सहित रजिस्ट्रों, रिकार्डों की जांच और निरीक्षण कर सकता है।
 - (3) तलाशी के दौरान उसी स्थान या भिन्न स्थान के कम से कम दो स्वतंत्र साक्षी की मौजूदगी सुनिश्चित करना।
11. **गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम और नियमों का अनुसरण करने के बारे में आगे क्या करें और क्या न करें, के संबंध में स्वास्थ्य मंत्रालय, भारत सरकार द्वारा संशोधनों के साथ प्रकाशित गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक अधिनियम और नियमों की पुस्तिका www.pndt.gov.in पर ऑनलाइन उपलब्ध कराई गई है।**

अनुसूची-2

लॉगबुक और मूल्यांकन

1. लॉगबुक

लॉगबुक, किए गए प्रशिक्षण क्रियाकलाप, ट्यूटोरियलों और स्व-निर्देशित ज्ञानार्जन तथा प्राप्त की गई सक्षमताओं को रिकार्ड करती है। अंतरिम मूल्यांकनों के दौरान लॉगबुकों के रखरखाव और नियमित पुनरीक्षण, प्रधान प्रशिक्षक और प्रशिक्षणार्थियों को इस बात की अनुमति देती है कि वे प्रशिक्षण पाठ्यक्रम के दौरान प्रगति मॉनीटर करें और कमियों का पता लगाएं। प्रशिक्षक, उपस्थिति, कौशल और सक्षमता के संबंध में लॉगबुक के दस्तावेजों के समुचित भागों पर हस्ताक्षर करेगा। यह अज्ञातमक है कि सभी सहभागी इस बात का महत्त्व समझें कि प्रशिक्षणार्थियों की प्रगति, उन मानकों के अनुरूप होनी चाहिए जो प्रशिक्षकों को संतुष्ट करें। प्रशिक्षण कार्यक्रम के अंत में प्रधान प्रशिक्षक को यह प्रमाणित करना होगा कि प्रशिक्षणार्थी द्वारा प्राप्त की गई सक्षमताएं और कौशल उसकी संतुष्टि के अनुसार हैं।

(1) प्रशिक्षण योजना स्तर 1 अभ्यास, सीधे पर्यवेक्षण के अधीन किया जाएगा :

इस आरंभिक मूल्यांकन पर, किसी प्रशिक्षण योजना पर, सक्षमता, कौशल और ज्ञानार्जन उद्देश्य सेट करने के लिए मनोवृत्तियों की सूची का इस्तेमाल करते हुए प्रधान प्रशिक्षक और प्रशिक्षणार्थियों के बीच सहमति होनी चाहिए (इसमें, प्रवेश मूल्यांकन के 6 महीने के भीतर भाग लिए जाने वाले सिद्धांत के पाठ्यक्रम का पता लगाना, यदि पहले नहीं किया, शामिल होना चाहिए)। यह आरंभिक ज्ञानार्जन उद्देश्य और इन्हें पूरा करने के लिए क्रियाकलाप योजना, प्रशिक्षणार्थी की अलग-अलग ज्ञानार्जन आवश्यकताओं के लिए बनाई जानी चाहिए। उत्तरवर्ती ज्ञानार्जन उद्देश्य, अंतरिम मूल्यांकनों पर निर्धारित किए जाने चाहिए, जब तक प्रशिक्षणार्थियों ने सभी सक्षमताएं, कौशल और सूचियों पर उपलब्ध मनोवृत्तियां प्राप्त न कर ली हों।

यह नियोजित ज्ञानार्जन प्राप्त करना प्रशिक्षणार्थी की जिम्मेवारी है। प्रधान प्रशिक्षक को इसमें मार्गदर्शन करना चाहिए परंतु उसे सभी प्रशिक्षण स्वयं आरंभ करने की आवश्यकता नहीं है।

सक्षमता की रिकार्डिंग के अतिरिक्त, लॉगबुक में प्रशिक्षणार्थी द्वारा देखे गए ग्राहकों के मूलभूत नैदानिक ब्योरे और अल्ट्रासाउंड प्रतिरूपणों की रिकार्डिंग के भाग भी होते हैं। अल्ट्रासाउंड प्रतिरूपण उच्च क्षमता के होने चाहिए और उनमें अल्ट्रासाउंड स्कैन के पहलू प्रदर्शित किए जाने चाहिए, जो नैदानिक मामले से संबंधित हों और प्रशिक्षणार्थी द्वारा इन्हें प्राप्त किया जाना चाहिए। प्रशिक्षणार्थी को, उन्हें लॉगबुक से संबद्ध करने से पहले प्रशिक्षक के साथ उचित प्रतिरूपणों की समीक्षा करनी चाहिए।

इस लॉगबुक का आशय, उन क्लिनिकों में अल्ट्रासाउंड प्रतिरूपण के अनुभव रिकार्ड करना है, जहां ग्राहकों को या तो अस्पताल में या सामुदायिक प्रतिष्ठान में स्त्रीरोग-विज्ञान संबंधी अवस्थाओं (आरंभिक गर्भावस्था क्लिनिकों, गर्भपात-पूर्व मूल्यांकन क्लिनिकों आदि) और उनकी उदरीय श्रोणी के प्रबंधन के भाग के रूप में अल्ट्रासाउंड प्रतिरूपण के लिए रेफर किया जाता है। इसमें :

- (क) आवश्यक सक्षमताओं की एक सूची के रूप में पाठ्यक्रम का एक सारांश भी उपलब्ध कराया जाता है।
- (ख) आपके और आपके प्रशिक्षकों के बीच सहमत ज्ञानार्जन उद्देश्यों के परिणाम रिकार्ड किए जाते हैं।
- (ग) आपकी उपलब्धियों का एक रिकार्ड उपलब्ध कराया जाता है, जो आप अपेक्षित क्षेत्र में सक्षमता प्राप्त करते हैं।
- (घ) आपकी सक्षमता का प्रमाणित मूल्यांकन रिकार्ड किया जाता है, जब आप प्रमाणपत्र के लिए आवेदन करते हैं।
- (ङ) भावी प्रैक्टिस के लिए संदर्भ के रूप में काम में लाने के लिए रोचक मामलों का एक स्थायी रिकार्ड उपलब्ध कराया जाता है।

(2) स्तर-I के प्रशिक्षण के लिए स्कैनों की अधिकतम संख्या (कुल 200 मरीज)

प्रासविक स्कैन

व्यवहार्य गर्भावस्थाएं	10
गैर-व्यवहार्य गर्भावस्थाएं	10
सामान्य जीवमिति	10
वृद्धि संबंधी प्रतिबंध	10
असामान्य गर्भावस्था	10 (इकटॉपिक या मल्टीपल आदि)
स्त्रीरोग संबंधी	10
आईयूसीडीज	05
तंतुशोथ	10
अण्डाशयी कृमिकोष	10
स्त्रीरोग संबंधी विकृतियां	10

गैर-प्रासविक स्कैन

सामान्य उदरीय स्कैन	20
पित्त पथरी रोग	10
अतिरिक्त यकृति पैंतिक वाहिका	05
यकृति ठोस पुंज	05
यकृति कृमिकोषीय घाव	05
अग्नाशय	05
मूत्रीय	25
सामान्य स्कैन	10
हाइड्रोनेफ्रोसिस सहित गुर्दे के कृमिकोषीय घाव	05
गुरदों के ठोस घाव	05
मूत्रवाहिनी और पित्ताशय की पथरी	05
प्रोस्टेट	05

अवलोकन-

योनिकपारीय स्कैन	10
कलर डोपलर अध्ययन प्रासविक	10

2. आरंभिक मूल्यांकन

प्रधान प्रशिक्षक को, सक्षमता का अंतिम मूल्यांकन और प्रशिक्षणार्थियों की प्रगति की जांच करने के लिए कम से कम एक अंतरिम मूल्यांकन करना चाहिए। प्रधान प्रशिक्षक को यह प्रमाणित करना होता है कि प्रशिक्षणार्थी द्वारा प्राप्त की गई सक्षमताएं और कौशल उसकी संतुष्टि के अनुसार हैं।

प्रशिक्षण कार्यक्रम से बाहर निकलने की दृष्टि से अंतिम सक्षमता प्रमाणित करने हेतु संबद्ध राज्य के चिकित्सा शिक्षा विभाग के निदेशक द्वारा नामनिर्दिष्ट किया जाना स्वतंत्र परीक्षक की जिम्मेदारी है।

(1) मूल्यांकनकर्ताओं के लिए दिशानिर्देश

- (क) मूल्यांकनकर्ता, अल्ट्रासोनोग्राफर, प्रसव-विज्ञानी या स्त्रीरोग-विज्ञान विशेषज्ञ या अल्ट्रासोनोग्राफी में अनुभवी डाक्टर हो सकते हैं।
- (ख) मूल्यांकनकर्ता द्वारा मूल्यांकन किए जा रहे व्यक्ति को यह स्पष्ट किया जाएगा कि इस अभ्यास का उद्देश्य, तकनीकी सक्षमता का मूल्यांकन करना है।
- (ग) प्रशिक्षणार्थी को, उसकी प्रायिक प्रैक्टिस के आधार पर प्रक्रिया करनी चाहिए। प्रशिक्षणार्थी और प्रशिक्षक को अलग-अलग फार्म भरने चाहिए और प्रशिक्षणार्थी के अवलोकन के पश्चात चर्चा की सूचना देने के लिए उनका इस्तेमाल करना चाहिए। मूल्यांकन का डिजाइन, तकनीकी कौशलों का मूल्यांकन करने के लिए तैयार किया जाता है। यह तकनीक चर्चा को समर्थ बनाती है और इस विषय पर चर्चा करने देगी कि प्रशिक्षणार्थी ने कैसे कार्य क्यों किया जैसेकि उसने किया।
- (घ) यह योजनाबद्ध है कि प्रत्येक प्रशिक्षणार्थी का मूल्यांकन, दो भिन्न-भिन्न मूल्यांकनकर्ताओं द्वारा, जिनमें से एक स्वतंत्र परीक्षक होना चाहिए, अंतिम मूल्यांकन के रूप में, किसी प्रशिक्षण कार्यक्रम में कम से कम दो बार तकनीकी कौशलों के उद्देश्यपरक संरचित मूल्यांकन के जरिए किया जाना चाहिए।
- (ङ) प्रशिक्षणार्थियों द्वारा, मूल्यांकन की जा रही प्रक्रिया में पहले ही सक्षमता (सीधा पर्यवेक्षण) प्राप्त कर लेनी चाहिए। प्रत्येक प्रक्रिया के लिए निम्नलिखित पूरा किया गया होना चाहिए:
 - (क) मद-वार लिखा गया जांच सूची स्कोर
 - (ख) तकनीकी कौशल मूल्यांकन शीट का उद्देश्यपरक संरचित मूल्यांकन।

मरीजों से लिखित सहमति प्राप्त करना आवश्यक नहीं है परंतु यह कहना विवेकपूर्ण होगा कि प्रशिक्षणार्थी पूरे पर्यवेक्षण के साथ मूल्यांकन में भाग ले रहा है। मरीजों को यह छूट है कि वे मूल्यांकन की प्रक्रिया में भाग न लें।

फार्मों की 3 प्रतियां रखी जानी चाहिए।

- (क) एक प्रशिक्षणार्थी के पोर्टफोलियो के लिए।
 (ख) एक प्रधान परीक्षक के लिए।
 (ग) एक सभी फार्मों के साथ संकाय सदस्य को वापस जाएगी, जब प्रमाणपत्र के लिए आवेदन किया जाता है।
- (2) तकनीकी कौशलों का उद्देश्यपरक संरचित मूल्यांकन (ओएसएटीएस)

(क) मूलभूत कौशल कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
मशीन सेट-अप			
स्कैन के लिए परामर्श देना			
उदरपारीय बनाम योनिकपारीय मार्ग पर निर्णय लेना			
जांच का विकल्प			
मरीज की स्थिति निर्धारण करना			
अभिमुखीकरण			
सामान्य का अभिज्ञान			
एंड्रोमेट्रियम			
सामान्य का अभिज्ञान			
म्योमेट्रियम			
सामान्य अण्डाशयों का अभिज्ञान			
सर्वाइकल की लंबाई मापना			
प्रतिरूपण रिकार्ड करना			
नोट कीपिंग			

विशेष टिप्पणियाँ

(ख) प्रारंभिक गर्भावस्था कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
व्यवहार्यता की पुष्टि करें			

गर्भकाल की तारीख			
कोरपस लुटेयम कृमिकोष का निदान करना			
बहुल गर्भावस्था का निदान करना			
पश्चगमन बीजाण्डासन हेमाटोमा केंद्र का अभिज्ञान			
भ्रूणीय गर्भावस्था का निदान करना			
असफल गर्भपात का निदान करना			
गर्भधारण के अवधारित उत्पादों का निदान करना			
विफल गर्भावस्था के लिए परामर्श करना			
इकटॉपिक गर्भावस्था का निदान करना			

विशेष टिप्पणियाँ			
(ग) अतिरज कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
उपश्लेषमल तंतुशोथ का अभिज्ञान			
भीतरी तंतुशोथ का अभिज्ञान			
उपसीरमी और पेंडुनकुलेटड तंतुशोथ की पहचान करना			
एडेनोम्योसिस की पहचान करना			
विशेष टिप्पणियाँ			

(घ) रजोनिवृत्ति के पश्चात रजोधर्म के दौरान रक्तस्राव कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	

एंडोमेट्रियल मोटाई मापें			
ऐट्रोफिक एंडोमेट्रियम का अभिज्ञान			
हाइपरप्लास्टि एंडोमेट्रियम का अभिज्ञान			
एंडोमेट्रियल पॉलिप्स का अभिज्ञान			
कार्यात्मक अण्डाशय ट्यूमर का अभिज्ञान			
विशेष टिप्पणियाँ			
(ङ) श्रोणीय पुंज कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
गर्भाशय के रूप में पुंज का अभिज्ञान			
यूनिलोक्यूलर अण्डाशय पुंज का अभिज्ञान			
जटिल अण्डाशय पुंज का अभिज्ञान			
एसाइट्स का अभिज्ञान			
विशेष टिप्पणियाँ			
(च) प्रजनन औषधि कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
एंडोमेट्रियम में चक्रीय परिवर्तनों का अभिज्ञान			
गर्भाशय में चक्रीय परिवर्तनों का अभिज्ञान			
पोलिसिस्टिक गर्भाशय का अभिज्ञान			
अंतःगर्भाशय या गर्भाशय में अंतरा गर्भाशय प्रणाली का पता लगाना			
अतिरिक्त श्रोणीय स्कैन			
इंफ्लानॉन के सामान्य बीजाण्डासन का अभिज्ञान			

गैर-स्पृश्य इंप्लानॉन का पता लगाना			
विशेष टिप्पणियाँ			
(छ) सामान्य उदर कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
यकृत और तिल्ली या पित्तीय प्रणाली			
मरीज को तैयार करने और स्कैनिंग की तकनीकें – सोनोग्राफिक शरीररचना-विज्ञान			
यकृत रोग विसारित करना			
चर्बीला यकृत, ग्रेड			
तीन यकृतशोथ, सूत्रण रोग और पोर्टल उच्च रक्तचाप			
नाभीय पुंज घाव – कृमिकोषीय घाव या ठोस घाव			
तिल्ली – स्पलेनामेगली या नाभीय स्पलेनिक पुंज – ठोस पुंज, कृमिकोष सबक्रोनिक फोड़ा			
विशेष टिप्पणियाँ			
(ज) सामान्य जांच कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
मूत्राशय प्रणाली			
गुरदे और मूत्राशय —स्कैनिंग तकनीकें			
सोनोग्राफिक शरीर रचना-विज्ञान			
इकॉजेनिसिटी, कॉर्टिकोमेडुलरी डिमार्केशन, रीनल साइनस, हाइपरट्रॉफाइड			
बर्टिन का कॉलम			
मूत्रवाहिनी – जन्मजात असामान्यताएं (रजोनिवृत्ति,			

इकटॉपिया, डुपलेक्स संग्रहण प्रणाली और यूरेट्रोसेले)			
हाइड्रोनेफ्रेसिस या गुरदे की पथरी या संक्रमण या द्यूमर्स या पथरी की अनुकृति			
नेक्रोकैल्सिनोसिस या प्येलोनेफ्रोसिस, प्योनेफ्रोसिस, रीनल और पेरीनेफ्रिक फोड़ा, चिरकालक प्येलोनेफ्रिटिस या तपेदिक या गुरदे की कोशिका का कर्कट रोग, सोनोग्राफिक दिखावट का प्रतिबिंब या एंजियोलिपोमा			
सुसाध्य कृमिकोषीय घाव (सामान्य कोरिकल कृमिकोश, जटिल कॉटिकल कृमिकोष, पारापेल्विक कृमिकोष)			
बृह-कृमिकोषीय गुरदा रोग			

विशेष टिप्पणियाँ			
(अ) सामान्य उदर कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
पित्त			
पित्त की पथरी, पित्त के आयतन का माप			
पित्त भित्ति (मॉटाई मापने की तकनीक)			
पित्त संबंधी पुंज, कृमिकोषीय			
विशेष टिप्पणियाँ			
(अ) सामान्य उदर कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
पित्त की थैली या अग्नाशय			
पित्ताशय – कोलेलिथियासिस			
पथरी से भरे पित्ताशय या एक विशेष प्रकार की पथरी का कुटावपात			

अग्नाशय-सूजन वाला तीव्र अग्नाशयशोथ (अतिरिक्त अग्नाषयी अभिव्यक्ति)			
कृत्रिम कृमिकोष या चिरकालिक अग्नाशयशोथ या अर्बुद (ठोस और कृमिकोष दिखने वाले)			

विशेष टिप्पणियाँ

(ट) सामान्य उदर कौशल	स्तर 1	स्तर 2	जब सक्षमता प्राप्त कर ली जाए तब प्रशिक्षक हस्ताक्षर करे और तारीख डाले
	पर्यवेक्षित	स्वतंत्र	
प्रॉस्टैट			
सोनोग्राफिक शरीररचना-विज्ञान (प्रॉस्टैट, सेमिनल वेसिकल्स)			
तकनीक (उदरपारीय अप्रोच)			
सेंट्रल जोन और पेरिफेरल जोन का पता लगाना या प्रॉस्टैट के वॉल्यूम का मापन			
रोग-विज्ञान – सुसाध्य हाइपरट्रॉफी प्रॉस्टैटिस ग्रंथिशोथ प्रॉस्टैट संबंधी श्लेषमल – प्रॉस्टैट का कैसर			

विशेष टिप्पणियाँ

अंतिम परीक्षण के लिए मूल्यांकन हेतु दिशानिर्देश

उत्तीर्ण होने के न्यूनतम अंक – प्रयोगात्मक के लिए 60 और सिद्धांत के लिए 50

I. सिद्धांत संबंधी मूल्यांकन

- (क) 100 अंक – दो घंटे
- (ख) एक-एक अंक के 50 बहु-विकल्प प्रश्न – 50 अंक
- (ग) पांच-पांच अंकों वाले 10 छोटे प्रश्न – 50 अंक
- (घ) छोटे प्रश्नों के उत्तर लिखने हेतु अभ्यर्थी के लिए एक निश्चित स्थान होगा।

II. प्रयोगात्मक मूल्यांकन

- (क) लॉगबुक के लिए 20 अंक
- (ख) निदर्शनों के लिए 50 अंक
- (ग) 30 अंकों के मौखिक प्रश्न

टिप्पण : डेमो के लिए परीक्षक निम्नलिखित दस में से कोई पांच चुन सकता है और 10-10 अंक आबंटित कर सकता है

चरण 1: तैयारी

- 1.1 उपकरण संबंधी तैयारी
- 1.2 मरीज संबंधी तैयारी
- 1.3 ऑपरेटर संबंधी तैयारी
- 1.4 उदर के निचले हिस्से का प्रकटन करना और जैल लगाना
- 1.5 ट्रांसड्यूसर चुनना

चरण 2: उन्नत और उच्च खतरे वाली गर्भावस्था के स्कैनिंग संलेख का प्रारंभण

- 2.1 मरीज की स्थिति
- 2.2 स्कैन प्लेन
- 2.3 उदरपारीय स्कैन प्लेन
इंडोवैजिनल स्कैन प्लेन
- 2.4 मानक दूसरी और तीसरी तिमाही के संलेख के प्रतिरूपण संबंधी शर्तें
 - 1. फेटल लाई, जीवन, संख्या, प्रस्तुतीकरण और साइटस
 - 2. मातृक गर्भाशय और ऐडनेक्से
 - 3. ऐमनियोटिक फ्लुइड और बीजाण्डासन की स्थिति
 - 4. फेटल जीवमिति
 - 5. फेटल शरीर रचना-विज्ञान

चरण 3 : दूसरी और तीसरी तिमाही की नैत्यक अल्ट्रासाउंड जांच का पर्यावलोकन

चरण 4 : फेटस और/या माता की नैदानिक स्थिति से सुसंगत लक्षित स्कैन करें

- 4.1 बहुलता गर्भावस्था के लिए स्कैन

चरण 5 : अंतःगर्भाशय वृद्धि संबंधी प्रतिबंध के लिए स्कैन

- 5.1 फेटल जीवमिति, वृद्धि और भार

चरण 6 : ऐमनियोटिक फ्लुइड और झिल्लियों के लिए स्कैन

- 6.1 ऐमनियोटिक फ्लुइड की मात्रा का परिकलन करें।

चरण 7 : जीवाण्डासन और अम्बलिकल कॉर्ड संबंधी असामान्यताओं के लिए स्कैन

- 7.1 बीजाण्डासन
- 7.2 अम्बलिकल कॉर्ड

चरण 8 : फेटल जीव भौतिक संबंधी प्रोफाइल के लिए स्कैन

चरण 9 : मातृक रोग की फेटल जटिलताओं के लिए स्कैन

- 9.1 फेटल हाइड्रॉप्स
- 9.2 मातृक मधुमेह
- 9.3 मातृक हाइपरटेंशन और प्रि-एक्लप्सिया
- 9.4 अन्य मातृक रोग

चरण 10 : सामान्य उदरीय स्कैन – मातृक जिगर/पित्ताशय/गुदों का मूल्यांकन करने के लिए निदर्शन करें

III. मौखिक परीक्षा – मामले की तीन स्थितियों पर 30 अंक

नैदानिक सोनोग्राफिक सह-संबंध

वीडियो क्लिप और मामला अध्ययन

IV. मामला अध्ययन

मामला संख्या	तारीख :
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प्रारंभिक आंकड़े

अल्ट्रासोनोग्राफी के निष्कर्ष

प्रभाव

मुख्य ज्ञानार्जन

[फा.सं. एन.24026 / 60 / 2008-पीएनडीटी]

डॉ. राकेश कुमार, संयुक्त सचिव

**MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)**

NOTIFICATION

New Delhi, the 9th of January, 2014

G.S.R. 14 (E).—In exercise of the powers conferred by clause (i) of sub-section (2) of Section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules, namely :—

1. **Short title and commencement.**-(1) These Rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions:**- In these rules, unless the context otherwise requires,-

- (a) "Act" means the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994);
- (b) "principle rules" means the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996;
- (c) "Six months training" means the training imparted under these rules.
- (d) "syllabus" means the syllabus given in Schedule I;
- (e) "Log book and assessment" means the Log book and assessment as specified in Schedule II;
- (f) words and expressions used herein and not defined in these rules but defined in the Act or in the principal rules, as the case may be, shall have the meanings, respectively, assigned to them in the Act or in the principle rules.

3. **Nomenclature of the Six months training in ultrasonography.**- The six months training imparted under these rules shall be known as "the Fundamentals in Abdomino- Pelvic Ultra sonography: Level one for M.B.B.S. Doctors".

4. **Period of the training.**- The period of training for obtaining a certificate of training shall be 300 clock hours.

5. **Components of the six months training curriculum.**- (1)The major components of the training curriculum shall be -

- (a) theory based knowledge to equip registered medical practitioners with the knowledge, professional skills, attitudes and clinical competencies;
- (b) skill Based knowledge;
- (c) log book and Assessment.

(2) The comprehensive syllabus for the said six months training is as specified in Schedule I.

(3) The details related to log book and assessment are as specified in Schedule II.

6. **Eligibility for training.**-(1)Any registered medical practitioner shall be eligible for undertaking the said six months training.

(2) The existing registered medical practitioners, who are conducting ultrasound procedures in a Genetic Clinic or Ultrasound Clinic or Imaging Centre on the basis of one year experience or six month training are exempted from undertaking the said training provided they are able to qualify the competency based assessment specified in Schedule II and in case of failure to clear the said competency based exam, they shall be required to undertake the complete six months training, as provided under these rules, for the purpose of renewal of registrations.

7. **Accreditation of institutions for six months training and its recognition.**- (1) The following teaching institutions would be accredited as training centres to impart the six months training, namely:-

- (a) Centres of Excellence established under the Acts of Parliament;
- (b) Medical Council of India recognised institutions offering Post Graduate programmes in Obstetrics or Gynaecology and Radiology;
- (c) Institutions offering full time residency DNB programme in Obstetrics or Gynaecology and Radiology.

(2) The names of the institutions recognised for this purpose shall be notified State wise by the State Health Medical Education Department.

Provided that the training institutes recognised for imparting the six months training shall maintain the standards of infrastructure, equipment and manpower including the faculty as per apex regulatory bodies like the Medical Council of India or the National Board of Examination.

8. **Selection of students.**— (1) The selection and intake of registered medical practitioners for admission to such trainings shall be on the basis of the following criteria:

- a) Intake for admission to such trainings shall be in 1:1 student to teacher ratio and training to be incurred in the Department of Radiology.
- b) Selection shall be as per the merit list of the State post graduate entrance exam.
- c) 20 % reservation for *in service* candidates.

9. **Changed criteria to be made prospective.**— These rules shall come into force with immediate effect in case of new registrations. However, all registered medical practitioners employed in a Genetic Clinic or Ultrasound Clinic or Imaging Centre on the basis of one year experience or six months training and failed to qualify the competency based exam as specified in Schedule II shall have to apply and clear six months training on or before 1st January, 2017.

10. **Fee structure for the training.**— (1) The training fee for conducting the six months training shall not exceed Rs. 20,000/-

(2) For registered medical practitioners who are already registered for conducting ultra sonography in a Genetic Clinic or Ultrasound Clinic or Imaging Centre and require to clear a competency based evaluation, the fee shall not exceed Rs. 10,000/-.

(3) Fee structure or waiver thereof for *in service* registered medical practitioners shall be decided by the respective State Governments.

11. **Staff-Faculty.**— (1) The institute conducting the said six months training for registered medical practitioners shall appoint the Post graduate teachers in Radiology or Obstetrics or Gynaecology recognised by the respective regulatory bodies as full time faculty for the said training programme.

(2) The Deans or Head of the respective teaching institutions shall be responsible for monitoring the training programme in entirety.

12. **Monitoring requirements.**— Monitoring of the training institutions imparting the six months training shall be as per the existing norms laid down by the respective apex regulatory bodies.

13. **Competency based evaluation.**— The final competency based evaluation at the end of the six months training shall be held as per the mechanism specified in Schedule II.

14. **Validity of the training certificate.**— Certification of training obtained from any State shall be applicable for the purposes of registration under Act in all States.

Schedule- I

FUNDAMENTALS IN ABDOMINO PELVIC ULTRASONOGRAPHY: Level one 6 Months Course for M.B.B.S. Doctors

Ultrasonography Syllabus

This training will equip individuals with the knowledge, professional skills, attitudes and clinical competencies to use ultrasound imaging in an appropriate and safe manner.

Training will have broadly two components:

1. Knowledge Based

The theoretical course – will cover lectures on Physics of ultrasound, ultrasound machines & probes, How to use ultrasound, Pre-natal Diagnostic Techniques Act, laws of ultrasound, Medicolegal aspects, Methodology, patient preparations, Complete Obstetric Ultrasound uses including use in first, second & third trimesters, Diagnosis of threatened abortion, ectopic pregnancy, biometry, anomaly scanning, Intra-uterine Growth Retardation (IUGR), Placental evaluation, Amniotic fluid evaluation, color doppler uses and 3D & 4D ultrasound. Complete Gynecological uses in evaluating female pelvis and evaluating infertility.

2. Skill Based

- (1) Ability to visualise in two dimensional image and a three dimensional structure.
- (2) Hand-Eye co-ordination.
- (3) Supervision is essential.

Summary Listing

I. Knowledge based: Theory Course

The contents of the theoretical course should include at least the following, in addition to covering the subjects outlined in the syllabus above:

- (A) **Principles of Ultrasound Examination**
 - (i) Physics, instrumentation and safety
 - (ii) Ultrasound systems and probes
 - (iii) Instrumentation and control panel
- (B) **Conduct of ultrasound scanning**
 - (i) Consent
 - (ii) Chaperone
 - (iii) Confidentiality
 - (iv) Infection control
 - (v) Examination technique: probe movements and image orientation
- (C) **Normal pelvic anatomy**
 - (i) The Ultrasound Scan appearances of the normal uterus, ovary, endometrium and pelvis
 - (ii) Endometrial and ovarian changes during menstrual cycles
 - (iii) How to take measurements of dimensions of pelvic structures
 - (iv) Measurement of endometrial thickness
- (D) **Early pregnancy**
 - (i) The Ultrasound Scan appearances in early pregnancy - Embryo, Placenta, Gestational Age, Twin pregnancy
 - (ii) Recognition and diagnosis of complications of early pregnancy including

- (a) extra-uterine pregnancy
 - (b) miscarriage
 - (c) retained products of conception.
- (E) **Identification or Recognition of pelvic pathology**
- (i) Use of Ultrasound Scan in managing menorrhagia, intermenstrual bleeding, postmenopausal bleeding
 - (ii) Ultrasound Scan appearances in polycystic ovaries, uterine fibroids, adenomyosis and endometrial polyps
 - (iii) Ultrasound Scan appearances of ovarian cysts – corpus luteum, simple and complex cysts and masses
 - (iv) Complex ovarian masses or ovarian screening
 - (a) Endometrial pathology in postmenopausal women
 - (b) Gestational trophoblastic neoplasia
 - (c) Chronic pelvic pain
 - (d) The assessment of tubal patency in infertility and follicular tracking for assisted conception
 - (e) The assessment of prolapse, incontinence, and anal sphincter damage
- (F) **Reproductive medicine**
- (i) Effect of contraceptive hormones and menopause on the endometrium
 - (ii) Use of Ultrasound Scan in identification of Intra-uterine Device or Intra-uterine System and Implanon position

Note.-Attendance at a theoretical course is mandatory. The theoretical course need not include any hands-on component.

II. Skills Based

- (A) **Basic Imaging Skills**
- (i) Machine set-up
 - (ii) Counselling for scan
 - (iii) Decide transabdominalvs.transvaginal route
 - (iv) Choice of probe
 - (v) Patient positioning
 - (vi) Orientation
 - (vii) Identify normal endometrium
 - (viii) Identify normal myometrium
 - (ix) Identify normal ovaries
 - (x) Measure cervical length
 - (xi) Recording images
 - (xii) Note keeping and documentation
- (B) **Early Pregnancy**
- (i) Confirm viability
 - (ii) Date pregnancy
 - (iii) Diagnose corpus luteum cyst
 - (iv) Diagnose multiple pregnancy
 - (v) Determine chorionicity/zygosity
 - (vi) Identifyretroplacental haematoma
 - (vii) Diagnose anembryonic pregnancy

- (viii) Diagnose missed miscarriage
- (ix) Diagnose retained products of conception
- (x) Counselling for failed pregnancy
- (xi) Diagnose ectopic pregnancy

(C) Menorrhagia

- (i) Identify submucous fibroid
- (ii) Identify intramural fibroid
- (iii) Identify subserous and pedunculated fibroid
- (iv) Identify adenomyosis

(D) Postmenopausal and intermenstrual bleeding

- (i) Measure endometrial thickness
- (ii) Identify atrophic endometrium
- (iii) Identify hyperplastic endometrium
- (iv) Identify endometrial polyps
- (v) Identify functional ovarian tumours

(E) Pelvic Mass

- (i) Identify mass as uterine
- (ii) Identify unilocular ovarian mass
- (iii) Identify complex ovarian mass
- (iv) Identify ascites

(F) Reproductive Medicine

- (i) Identify cyclical changes in endometrium
- (ii) Identify cyclical changes in ovary
- (iii) Identify polycystic ovary
- (iv) Locate Intra-uterine Device or Intra-uterine System position in uterus

(G) Extra-Pelvic Scans

- (i) Identify normal placement of Implanon
- (ii) Locate non-palpable Implanon

(H) Contents – Section One

- (i) Instrumentations and basics
- (ii) Physics for practical applications
- (iii) Examination techniques
- (iv) Trans-abdominal and Trans-vaginal Scan

1. The knowledge base.-(1) Principles of ultrasound examination :

- (i) Physics
 - (ii) Safety
 - (iii) Machine set-up and operation
 - (iv) Patient care
 - (v) Principles of report writing
 - (vi) Consent
- (2) The relevant principles of acoustics, attenuation, absorption, reflection, speed of sound;
- (3) The effect on tissues of pulsed and continuous wave ultrasound beams :biological effects, thermal and non-thermal; safety
- (4) Basic operating principles of medical instruments
- (5) Types of transducers:

2. Skill sets.-(1) Use of ultrasound controls :

- (i) Signal processing— gray scale — time gain compensation, acoustic output relationship
- (ii) Artefacts, interpretation and avoidance — reverberation — side lobes — edge effects - registration — shadowing — enhancement;
- (iii) Measuring systems — linear, circumference, area and volume — Doppler ultrasound—flow,
- (iv) Imaging recording, storage and analysis;
- (v) Interpretation of acoustic output information and its clinical relevance
- (vi) Patient information and preparation reporting

(I) Contents – Section Two

- (i) Ultrasound anatomy of the abdomen, pelvis and fetus
- (ii) Embryology or pathophysiology in short as applied to abd-pelvis

1. The knowledge base

- (i) Knowledge of normal ultrasound appearances of the endometrium, myometrium and ovaries throughout a menstrual cycle.
- (ii) Understanding of techniques to measure the uterus, endometrium.
- (iii) Knowledge of normal ultrasound appearances of the ovaries and adnexa.

(a) Gynaecological abnormalities: uterine

- (i) Knowledge of the ultrasound appearances of fibroids and adenomyosis.
- (ii) Knowledge of endometrial pathology
- (iii) Intra-uterine Contraceptive Device localisation

(b) Gynaecological abnormalities: ovarian lesions

- (i) Knowledge of the differential diagnosis of ovarian and para-ovarian lesions.
- (ii) Knowledge of typical ultrasound findings of common ovarian appearances such as polycystic ovaries.
- (iii) Knowledge of ultrasound features of ovarian cancer and the features of advanced disease

(c) Extraovarian lesions

- (i) Knowledge of the principles of conducting ultrasound examination in chronic pelvic pain.
- (ii) Knowledge of typical morphological features of endometriosis, and pelvic adhesions.

(d) Ultrasonography Anatomy of Abdomen

- (i) Knowledge Base - Normal appearance
- (ii) Abnormalities commonly found
- (iii) Reporting of Mass lesions
- (iv) Measurements - specific locations & Proper Techniques

2. Skill sets

- (i) Ability to consistently identify and examine the uterus, ovaries, adnexa and pouch of Douglas.
- (ii) Ability to assess cyclical endometrial changes and endometrial responses to the combined pill and other hormonal preparations.
- (iii) Ability to assess the uterine size and to accurately measure endometrial thickness.
- (iv) Ability to assess ovarian volume and functional changes in the ovaries and adnexa during menstrual cycle: follicular appearances, variation in the morphology of corpora lutea, functional cysts, fluid in pouch of Douglas.
- (v) Ability to diagnose uterine fibroids, measure their size and assess their relation to the endometrial cavity. Correlate ultrasound findings to clinical symptoms.
- (vi) Ability to assess fibroids and adenomyosis and differentiate where possible.
- (vii) Ability to interpret the measurement of endometrial thickness in the clinical context.
- (viii) Ability to differentiate between focal and global endometrial thickness.

- (ix) To be able to identify Intra-uterine Contraceptive Device and its location within the uterus.
 - (x) Ability to perform ultrasound examination combined with palpation in order to accurately identify the origin of pelvic lesion and interpret this in the clinical context.
 - (xi) Ability to assess the size of adnexal lesions including mean diameter and volume.
 - (xii) Ability to approach the assessment of adnexal lesions in a systematic way. Familiarity with standardised terms and definitions to describe sonographic features of adnexal lesions
 - (xiii) Ability to diagnose simple functional and haemorrhagic cysts, polycystic ovaries, dermoids and endometriomas based on subjective assessment alone.
 - (xiv) Ability to recognise abnormal pelvic fluid/ascites
 - (xv) Ability to take a good clinical history in order to facilitate differential diagnosis of pelvic pain.
 - (xvi) Be able to assess tenderness and mobility of pelvic organs including the pouch of Douglas on transvaginal ultrasound scan.
 - (xvii) Ability to recognise ovarian endometriomas, hydrosalpinges, the consequences of pelvic adhesions and peritoneal pseudocysts on ultrasound scan.
- (a) (1) Gynaecological ultrasound**
- (i) Accurate measurement of the
 - (ii) endometrium in the accepted sagittal plane
 - (iii) Assessment of the adnexal regions: accurate identification of the normal ovaries, normal fallopian tube, normal pelvic fluid
 - (iv) Accurate measurement of normal and abnormal adnexal structures: mean diameter and volume
 - (v) Recognise and evaluate common endometrial and myometrial abnormalities
 - (vi) Recognise and evaluate common ovarian abnormalities
 - (vii) Recognise and evaluate complex ovarian masses and refer on appropriately
 - (viii) Communicating normal results to patients
 - (ix) Communicating appropriate abnormal results to patients
 - (x) Producing written summary and interpretation of results
 - (xi) Issue structured written report
 - (xii) Arranging appropriate follow up or intervention
- (2) Skill Set**
- (i) Ability to consistently identify and examine Abdominal structures
 - (ii) Identify Normal
 - (iii) Identify Common Pathological Lesions
 - (iv) How and When to seek further opinion
- (b) Liver and Spleen or Biliary System or Gall Bladder or Pancreas**
- Patient preparation and Scanning Techniques
—Sonographic Anatomy
- (i) **Liver** -Diffuse liver disease, Fatty Liver, Grades. Acute hepatitis, cirrhosis and portal hypertension, **Focal Mass Lesions**—Cystic Lesions or Solid Lesions
 - (ii) **Spleen**- Splenomegaly or Focal splenic mass – Solid mass, cysts, subphrenic abscess
 - (iii) **Gall Bladder**- Cholelithiasis or GB filled with calculi or Atypical calculus or Pitfalls
 - (iv) **Pancreas**-Inflammatory Acute pancreatitis (pancreatic and extrapancreatic manifestation)
 - (a) Pseudocyst Chronic Pancreatitis or Neoplasms (solid and cystic looking)
- (c) PROSTATE**
- (i) Sonographic anatomy (prostate, seminal vesicles)
 - (ii) Technique (transabdominal approach)
 - (iii) To identify central zone & peripheral zone or Measurement of prostate volume

- (iv) Pathology
 - (a) Benign hypertrophy Prostatitis
 - (b) Prostatic abscess Cancer of prostate

(d) **URINARY SYSTEM**

Kidneys & ureters ... scanning technique

(e) **KIDNEYS**

- (i) Sonographic anatomy
- (ii) Echogenicity, corticomedullary demarcation, renal sinus, Hypertrophied
- (iii) Column of Bertin
- (iv) URETERS Congenital anomalies(agenesis, ectopia, duplex collecting system & ureterocele)
- (v) Hydronephrosis or Renal calculus or Infection or Tumours or Mimics of calculus
- (vi) Nephrocalcinosis or Pyelonephritis, pyonephrosis, renal and perinephric abscess, chr. Pyelonephritis or Tuberculosis or Renal cell carcinoma, spectrum of sonographic appearance or Angiolipoma
- (vii) Benign Cystic lesions (simple cortical cyst, complex cortical cyst, parapelvic cyst)
- (viii) Polycystic kidney disease

(f) **BLADDER**

- (i) Bladder calculus, bladder volume measurement.
- (ii) Bladder wall (technique of thickness measurement)
- (iii) Bladder mass, cystitis

(J) **Contents – Section Three: Basics of obstetric scanning and interpretation in all trimesters – 3 Modules**

I. Module 1 Early pregnancy :Trans-abdominal ultrasound examination of early pregnancy

The aims of the module:

- (i) For trainees to become familiar with ideal machine set up and use of the transabdominal probe (including probe orientation)
- (ii) To gain competence in undertaking a basic 'dating scan' using transabdominal scanning between 8-12 weeks gestation
- (iii) To encourage an acute awareness of what can and cannot be seen using the transabdominal route in early pregnancy.

(a) ***Learning outcomes***

To be able to carry out appropriate:

- (i) ultrasound identification of an intrauterine pregnancy
- (ii) ultrasound identification of cardiac activity
- (iii) basic first trimester biometry
- (iv) referral as required

(b) ***The knowledge base***

- (i) Understand morphological features of normal early pregnancy
- (ii) Understand physiology of cardiac activity in first trimester.
- (iii) Understand principles of gestational sac diameter and crown-rump length measurements
- (vi) Understand the principles of differences between normal intrauterine gestation sac and a pseudosac
- (v) Understand diagnostic problems which may occur e.g. empty bladder, obese women and those with large uterine fibroids
- (vi) Know when to refer for a Trans-vaginal scan

- (c) **Understand the diagnosis of multiple**
- (i) pregnancy, chorionicity and amnionity.
 - (ii) Understand criteria to diagnose miscarriage.
 - (iii) Understand the principles of ultrasound diagnosis of ectopic pregnancy.
 - (iv) Understand the management of women with Pregnancy of Unknown Location
 - (v) Knowledge of clinical and ultrasound findings suspicious of molar
- (d) **Skill sets**
- (i) Ability to identify the features of a normal gestational sac and confirm its intrauterine location.
 - (ii) Ability to measure gestational sac size and crown-rump length.
 - (iv) Ability to identify early cardiac activity using B-mode.
 - (v) Identify fetal number
 - (vi) Ultrasound diagnosis of early embryonic demise
 - (vii) Ultrasound assessment of a woman with suspected ectopic pregnancy
 - (viii) Ability to establish the diagnosis of multiple pregnancy with confidence and to assess chorionicity and amnionity.
 - (ix) Ability to diagnose early embryonic demise based on assessment of gestational sac size and/or crown-rump length. Identify, assess and measure retained products of conception in women with incomplete miscarriages.
 - (x) Ability to correlate clinical, morphological and biochemical findings.
 - (xi) Ability to evaluate adnexa in a systematic and effective way and to interpret the findings in a clinical context. Identify the site and the number of corporalutea. Identify tubal and non-tubal ectopic pregnancy and examine for the presence of a yolk sac or an embryo. Assess the amount and quality of fluid in the pouch of Douglas.
 - (xiii) Seek help with confirmation of diagnosis and further management
 - (xiv) Recognise limits of competency
 - (xv) Know limits of own ability and when to refer for further opinion Accurate documentation of measurements
 - (xvi) Producing written summary and interpretation of results
 - (xvii) Communicating normal results to parents
 - (xviii) Communicating abnormal results to parents
 - (xix) Arranging appropriate referral, follow up or intervention

II. Module 2- Basic : Ultrasound assessment of fetal size, liquor and the placenta

(a) **The aims of the module:**

To gain basic competences that are potentially useful in day-to-day obstetric practice, including lie, presentation, placental site and liquor assessment. Basic biometry techniques will be taught but competence to the level of 'independent practice' is not required

(b) **The knowledge base**

1. Biometry

- (i) Awareness of the various lies and presentations
- (ii) Fetal growth or Physiology
- (iii) Pathology
 - (A) Maternal
 - (B) Placental
 - (C) Fetal
- (iv) Fetal biometry or Anatomical landmarks or Reference charts or Interpretation (including variability)
- (v) Calculation and value of:
 - (A) Ratios
 - (B) Estimated fetal weight

2. **Amniotic fluid**
 - (i) Amniotic fluid volume or Physiology or Change with gestation or Pathology
 - (ii) Ultrasound measurement
 - (iii) Subjective vs objective
 - (iv) Max vertical pocket or Amniotic Fluid Index
 - (v) Reference charts
 - (vi) Interpretation (including variability)
 - (vii) Oligohydramnios
 - (viii) Definition and associations
 - (ix) Polyhydramnios
 - (x) Definition and associations
3. **Placenta**
 - (i) Ultrasound assessment of site
 - (ii) Indication for Transabdominal and transvaginal ultrasound
 - (iii) Placenta praevia
 - (iv) Classification
 - (v) Management
- (e) **Skill Sets**
 - (i) Accurate measurement of Bi-parietal Diameter, Head Circumference , Abdominal Circumference ,Femure Length
 - (ii) Accurate documentation of measurements and observations, including chart plotting
 - (iii) Assessment of liquor volume
 - (iv) Be able to perform and interpret assessment of Amniotic Fluid Volume, maximum vertical pool depth and Amniotic Fluid Index using ultrasound
 - (v) Measurement of Amniotic Fluid Index
 - (vi) Assessment of liquor volume
 - (vii) Measurement of Maximal Vertical Pool Depth
 - (viii) Assessment of placental position using the trans-abdominal route
 - (ix) Arranging appropriate follow up or referral
 - (x) Producing written summary and interpretation of results
 - (xi) Communicating normal results to parents
 - (xii) Maintains awareness of limitations of own competence

III. **Module 3: Intermediate: Ultrasound of normal fetal anatomy**

(a) **The aims of the module:**

The overall aim of this module is to ensure that the trainee understands the indications for a fetal anatomy scan, is able to perform the scan safely and competently and to report the findings of the scan

(b) **Learning outcomes**

The trainee should be able to:

- (i) take a proper clinical history.
- (ii) carry out ultrasound examination in the appropriate environment with respect to the patients' privacy, cultural and religious needs.
- (iii) understand the normal morphological ultrasound appearances of the fetus and its environment.
- (iv) diagnose normal fetal anatomy
- (v) be aware of the normal anatomical variants
- (vi) understand the limits of their competence and the need to seek advice where appropriate.
- (vii) Communicate the results to the parents
- (viii) write a structured report
- (ix) learn when to refer patients where appropriate.

(c) **The knowledge base**

- (i) Know anatomical landmarks for performing standard fetal measurements Bi-parietal Diameter, Head Circumference, Abdominal Circumference, Femure Length
- (ii) Recognise normal appearance of fetal structures and appreciate different appearance at different gestations
- (iii) Know the detection rates of common anomalies
- (iv) Provide parents with necessary information in a form they understand
- (v) Communicate scan findings and information given to parents to other health professionals

(d) **Skill sets**

- (i) Identify fetal position within uterus
- (ii) Be able to move probe with purpose to identify
- (iii) fetal structures
- (iv) Be able to consistently and systematically identify the features described in an "optimal" anomaly scan
Be able to perform standard fetal measurements Bi-parietal Diameter, Head Circumference, Abdominal Circumference, Femure Length including and also trans cerebellar diameter, ventricular atrial diameter and Antero-posterior diameter of the renal pelvis
- (v) Identify placental site
- (vi) Recognise limits of competency
- (vii) Recall patients appropriately for further scans if structures not seen clearly
- (viii) Accurate measurements of Bi-parietal Diameter, Head Circumference, Abdominal Circumference, Femure Length, Transverse Cerebral Diameter and lateral atrial diameter of the cerebral ventricles
- (ix) Confirm normal anatomy of head and face
- (x) Confirm normal anatomy of spine
- (xi) Confirm normal anatomy of heart and chest
- (xii) Confirm normal anatomy of abdomen
- (xiii) Confirm normal anatomy of limbs
- (xiv) Perform full anomaly scan
- (xv) Recognise common structural anomalies
- (xvi) Locate and assess placenta
- (xvii) Assess liquor volume
- (xviii) Provide parents with information about:
- (xix) Normal scan findings
- (xx) Abilities and limitations of ultrasound
- (xxi) To be aware of the limitations of this technique and know when to refer
- (xxii) To be able to discuss with parents the possibility of an abnormality and the need for a further opinion

(K) **Contents – Section Four**

1. Introduction to the problem of declining child sex ratio and provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act.

Continuous decline in child sex ratio since 1961 Census is a matter of concern for the country. Beginning from 976 in 1961 Census, it declined to 927 in 2001. As per Census 2011 the Child Sex Ratio (0-6 years) has dipped further to 919 against 927 girls per thousand boys recorded in 2001 Census. Child sex ratio has declined in 18 States and 3 UTs and except for the states of Himachal Pradesh (909), Punjab (846), Chandigarh (880), Haryana (834), Mizoram (970), Tamil Nadu (943), Karnataka (948), Delhi (871), Goa (942), Kerala (964), Gujarat (890), Arunachal Pradesh (972), and Andaman & Nicobar Islands (968) showing marginal improvement, rest of the 21 states/ UTs have shown decline.

“The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act.”

“An Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto.”

2. Implementation of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994:

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act was enacted on September 20, 1994 and the Act was further amended in 2003. The Act provides for the prohibition of sex selection ,before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto.

The Act is implemented through the following implementing bodies:

- (i) Central Supervisory Board
- (ii) State Supervisory Boards and Union Territory Supervisory Boards
- (iii) Appropriate Authority for the whole or a part of the State or Union Territory
- (iv) State Advisory Committee and Union Territory Advisory Committee
- (v) Advisory Committees for designated areas (part of the State) attached to each Appropriate Authority.
- (vi) Appropriate Authorities at the District and Sub-District levels

3. Registration:

Appropriate Authority of the district is responsible for registration of ultrasound diagnostic facilities.

4. Application fee:

- (1) Rs.25000.00 for Genetic Counselling centre, Genetic laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre.
- (2) Rs.35000.00 for an institute, hospital, nursing home, or any place providing jointly the service of Genetic Counselling Centre, Genetic laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre or any combination thereof.

5. Mandatory Displays at ultrasound center:

- (1) Pre-conception and Pre-natal Diagnostic Techniques (PC and PNDT) Certificate: It is mandatory for every clinic or facility or hospital etc. registered under the Pre-conception and Pre-natal Diagnostic Techniques Act to display the certificate of registration at a conspicuous place at such Centre, Laboratory or Clinic.
- (2) Signage, board or banner in English & local language indicating that foetal sex is not disclosed at the concerned facility.
- (3) Copy of the Pre-conception and Pre-natal Diagnostic Techniques Act must be available in every ultrasound center

6. Renewal of registration

- (1) Every certificate of registration is valid for a period of 5 years
- (2) Renewal of registration to be done 30 days before the date of expiry of the certificate of registration.

7. Mandatory maintenance of records: Register showing in serial order:

- (1) Names and addresses of men or women subjected to *pre-natal diagnostic procedure or test*;
- (2) Names of their spouses or fathers;

- (3) Date on which they first reported for such counselling, procedure or test.
- (4) A monthly report should be submitted to the Appropriate Authority regularly, before the 5th of every month. A copy of same monthly reports with the signature of the Appropriate Authority acknowledging receipt must be preserved.

8. Preservation of the following duly completed forms

- (i) Form F
- (ii) Referral Slips of Doctors
- (iii) Forms of consent
- (iv) Sonographic plates or slides

9. Record storage:

All above records should be preserved for 2 years.

10. Powers of Appropriate Authority :

- (1) Appropriate Authority can enter freely into any clinic or facility for search and seizure.
- (2) Examine and inspect of registers, records including consent forms, referral slips, Forms, sonographic plates or slides and equipment like ultrasonography machines.
- (3) To ensure presence of at least two independent witnesses of the same locality or different locality during the search

11. For further Do's and Don'ts about following the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act and rules a Handbook of Pre-conception and Pre-natal Diagnostic Techniques Act and rules with Amendments published by Ministry of Health, Government of India has made available online on www.pndt.nic.in

Schedule- II

LOGBOOK AND ASSESSMENT

1. The Logbook

The Logbook records the training activity, tutorials and self-directed learning undertaken and competencies achieved. Maintenance and regular review of the logbooks during interim assessments will allow the Principal Trainer and Trainee to monitor progress and identify deficiencies over the course of training. The Trainer will sign the appropriate sections of the Logbook documents with regard to attendance, skill and competence. It is imperative that all participants appreciate that the Trainee's progress has to meet standards that satisfy the Trainers. At the end of the training programme, the Principal Trainer has to certify that the competencies and skills attained by the Trainee are to his/her satisfaction.

(1) Training Plan Level 1 exercise to be performed under direct supervision:

At this initial assessment, a training plan should be agreed between the Principal Trainer and the Trainee, using the competency, skills and attitudes lists to set the learning objectives. (This should include, identifying a theory course to be attended within 6 months of induction assessment, if not already undertaken.) The initial learning objectives and the activity plan to meet these should be tailored to the individual learning needs of the Trainee. Subsequent learning objectives should be set at interim assessments until the Trainee has attained all the competencies, skills and attitudes on the lists.

It is the Trainee's responsibility to undertake this planned learning. The Principal Trainer should guide this, but need not undertake all training themselves.

In addition to the recording of competence, the logbook also contains sections for the recording of ultrasound images and basic clinical details of clients seen by the trainee. The ultrasound images should be of high quality and

demonstrate aspects of the ultrasound scan which are pertinent to the clinical case and should have been obtained by the trainee. The trainee should review suitable images with the Trainer, prior to attaching them to the logbook.

This logbook is intended to record experience of ultrasound imaging in clinics where clients are referred for ultrasound imaging as part of the management of their abdomino-pelvic and gynecological conditions (early pregnancy clinics, pre-abortion assessment clinics, etc) either in hospital or community setting.

It also:

- (a) Provides a summary of the syllabus in the form of a list of necessary competencies.
- (b) Records the outcomes of the learning objectives agreed between you and your Trainers.
- (c) Provides a record of your achievements as you attain competence in the required areas.
- (d) Records the certified assessment of your competence when applying for the Certificate.
- (e) Provide a permanent record of interesting cases to act as a reference for future practice.

(2) Minimum Number of Scans for Level-I Training (Total 200 cases)

Obstetric Scans

Viable Pregnancies	10
Non Viable Pregnancies	10
Normal Biometry	10
Growth Restrictions	10
Abnormal Pregnancy	10 (ectopic or multiple etc.)
Gynaec	10
IUCD's	05
Fibroids	10
Ovarian Cysts	10
Gynaec Disorders	10

Non- Obstetric Scans

Normal abdominal Scan	20
Gall Stone Disease	10
Extra hepatic Biliary Channel	05
Hepatic Solid Masses	05
Hepatic Cystic Lesions	05
Pancreas	05
Urinary	25
Normal Scan	10
Cystic lesions of Kidney including Hydronephrosis	05
Solid lesions of Kidneys	05
Ureteric and Bladder Stones	05
Prostate	05

Observations -

Transvaginal Scan	10
Color Doppler Studies Obstetric	10

2. Assessment

As well as the initial assessment, the Principal Trainer must perform at least one interim assessment to check the Trainee's progress and the summative (final) assessment of competence. The Principal Trainer has to certify that the competencies and skills attained by the Trainee are to his/her satisfaction.

It is the responsibility of the independent examiner to be nominated by Director, Medical Education Department of the concerned State to certify final competence, in order to exit the training programme .

(I) Guidelines for Assessors

- (a) Assessors may be Ultrasonographers, Obstetricians or Gynaecologists or doctors experienced in ultrasonography.
- (b) Assessor should explain to the person being assessed, that the purpose of this exercise is to assess technical competence.
- (c) The trainee should perform the procedure based on his/her usual practice. The trainee and trainer should fill in the forms separately and use them to inform discussion following observation of the trainee. The assessment is designed to assess technical skills. It enables discussion on technique and will allow discussion on why the trainee acted as she/he did.
- (d) It is planned that each trainee should be assessed by Objective Structured Assessment of Technical Skills at least twice in a training programme; by different assessors, one of whom should be the Independent Examiner, as part of the summative assessment.
- (e) Trainees must already have achieved competence (direct supervision), in the procedure being evaluated.

For each procedure, the following must be completed:

- (a) Itemised Checklist Score
- (b) Objective Structured Assessment of Technical Skills assessment sheet

It is not necessary to obtain written consent from patients, but it would be prudent to say that the Trainee is partaking in an assessment with full supervision. Patients may choose not to be part of the assessment process.

3 copies of the forms should be kept;

- (a) One for the trainee's portfolio
- (b) One for the Principal Trainer
- (c) One to go back to the Faculty with all forms when the certificate is applied for.

(2) **OBJECTIVE STRUCTURED ASSESSMENT OF TECHNICAL SKILLS (OSATS)**

(A). BASIC SKILLS Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Machine set-up			
Counselling for scan			
Decide transabdominal vs.			

(A). BASIC SKILLS Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
Transvaginal route			
Choice of probe			
Patient positioning			
Orientation			
Identify normal endometrium			
Identify normal Myometrium			
Identify normal ovaries			
Measure cervical length			
Recording images			
Note keeping			

Special Remarks

(B). EARLY PREGNANCY Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Confirm viability			
Date pregnancy			
Diagnose corpus luteum cyst			
Diagnose multiple pregnancy			
Identify retroplacental haematoma			
Diagnose anembryonic pregnancy			
Diagnose missed miscarriage			
Diagnose retained products of conception			
Counselling for failed pregnancy			

Diagnose ectopic pregnancy			
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Special Remarks

(C). MENORRHAGIA Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Identify submucous fibroid			
Identify intramural fibroid			
Identify subserous and pedunculated fibroid			
Identify adenomyosis			

Special Remarks

(D). POSTMENOPSA AND INTERMENSTRUAL BLEEDING Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Measure endometrial thickness			
Identify atrophic endometrium			
Identify hyperplastic endometrium			
Identify endometrial polyps			
Identify functional ovarian tumours			

Special Remarks

(E). PELVIC MASS Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Identify mass as uterine			
Identify unilocular ovarian mass			
Identify complex ovarian mass			
Identify ascites			

Special Remarks

(F). REPRODUCTIVE MEDICINE Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
Identify cyclical changes in endometrium			
Identify cyclical changes in ovary			
Identify polycystic ovary			
Locate Intra-uterine Device or Intra-uterine System position in uterus			
EXTRA PELVIC SCANS			
Identify normal placement of Implanon			
Locate non-palpable Implanon			

Special Remarks

(G). GENERAL ABDOMEN Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
LIVER AND SPLEEN or BILIARY			

SYSTEM			
Patient preparation and Scanning Techniques- Sonographic Anatomy Diffuse liver disease			
Fatty Liver, Grades. Acute hepatitis, cirrhosis and portal hypertension Focal Mass lesions - Cystic Lesions or Solid Lesions Spleen - Splenomegaly or Focal splenic mass – Solid mass, cysts, subphrenic abscess			

Special Remarks

(H). GENERAL ABDOMEN Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
URINARY SYSTEM			
Kidneys & ureters ... scanning technique			
Sonographic anatomy			
Echogenicity, corticomedullary demarcation, renal sinus, Hypertrophied			
Column of Bertin			

<p>URETERS Congenital anomalies (agenesis, ectopia, duplex collecting system & ureterocele)</p>			
<p>Hydronephrosis or Renal calculus or Infection or Tumours or Mimics of calculus</p> <p>Nephrocalcinosis or Pyelonephritis, pyonephrosis, renal & perinephric abscess, chr. Pyelonephritis or Tuberculosis or Renal cell carcinoma, spectrum of sonographic appearance or Angiolipoma</p>			
<p>Benign Cystic lesions (simple cortical cyst, complex cortical cyst, parapelvic cyst)</p> <p>Polycystic kidney disease</p>			

Special Remarks

(I). GENERAL ABDOMEN Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
BLADDER			
Bladder calculus, bladder volume measurement.			
Bladder wall (technique of thickness measurement)			
Bladder mass, cystitis			

Special Remarks

(J). GENERAL ABDOMEN Skill	Level 1	Level 2	Trainer to sign and date when competence achieved
	Supervised	Independent	
GALL BLADDER or PANCREAS			
Gall Bladder- Cholelithiasis			
GB filled with calculi or Atypical calculus or Pitfalls			
Pancreas - Inflammatory Acute pancreatitis pancreatic andextrapancreatic manifestation			
Pseudocystor Chronic Pancreatitis or Neoplasms (solid and cystic looking)			

Special Remarks

(K). GENERAL ABDOMEN Skill	Level 1	Level 2	Preceptor to sign and date when competence achieved
	Supervised	Independent	
PROSTATE			
Sonographic anatomy (prostate, seminal vesicles)			
Technique (transabdominal approach)			
To identify central zone and peripheral zone or Measurement of prostate volume			
Pathology - Benign hypertrophy Prostatitis Prostatic abscess - Cancer of prostate			

Special Remarks

GUIDELINES FOR ASSESSMENT FOR FINAL EXAMINATION

Minimum pass marks – For practicals 60 and Theory 50

I. THEORY ASSESMENT

- (a) 100 marks – two hours
- (b) 50 multiple choice questions of one mark each= 50 marks
- (c) 10 short answers with five marks each = 50 marks
- (d) Short Question will have a defined space for the candidate to fit answer

II. PRACTICAL ASSESMENT

- (a) 20 marks for log book
- (b) 50 marks for demonstrations
- (c) 30 marks viva

Note: The examiner can chose any FIVE of these TEN for demo and allot 10 marks each

Step 1: Preparation

- 1.1 Equipment preparation
- 1.2 Patient preparation
- 1.3 Operator preparation
- 1.4 Expose the lower abdomen and apply the gel
- 1.5 Select the transducer

Step 2: Commence the growth and high-risk pregnancy scanning protocol

- 2.1 Patient position
- 2.2 Scan plane
 - 2.2 Transabdominal scan plane
 - Endovaginal scan plane
- 2.3 Standard second and third trimester protocol image requirements
 - 1. Fetal lie, life, number, presentation, and situs
 - 2. Maternal uterus and adnexae
 - 3. Amniotic fluid and placental location
 - 4. Fetal biometry
 - 5. Fetal anatomy

Step 3: Overview of second and third trimester routine ultrasound examination

Step 4: Perform targeted scan relevant to clinical condition of fetus and/or mother

- 4.1 Scan for multiple pregnancy

Step 5: Scan for intrauterine growth restriction

- 5.1 Fetal biometry, growth, and weight

Step 6: Scan for amniotic fluid and membranes

- 6.1 Calculate the amniotic fluid volume

Step 7: Scan for placenta and umbilical cord abnormalities

- 7.1 Placenta
- 7.2 Umbilical cord

Step 8: Scan for fetal biophysical profile

Step 9: Scan for fetal complications of maternal disease

- 9.1 Fetal hydrops
- 9.2 Maternal diabetes
- 9.3 Maternal hypertension and pre-eclampsia
- 9.4 Other maternal diseases

Step 10: Demonstrate – to asses general abdominal scan – maternal liver/gall bladder/kidneys

III. VIVA – 30 marks on three case situations

Clinicosonographic co-relation

video clip and case studies

IV. CASE STUDY

Case Number:	Date:
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Preliminary data

Ultrasonography Findings

Impressions

Key Learnings

[F No. N.24026/60/2008-PNDT]

DR. RAKESH KUMAR , Jt. Secy.

ANNEX 5: PC&PNDT ACT AMENDMENT RULES 2014 (“FORM F”)

रजिस्ट्री सं० डी० एल०-33004/99

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भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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स्वास्थ्य और परिवार कल्याण मंत्रालय

अधिसूचना

नई दिल्ली, 31 जनवरी, 2014

सा. का. नि. 77. (अ).—केन्द्रीय सरकार, गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57), की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 2014 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम के प्ररूप च के स्थान पर निम्नलिखित प्ररूप रखा जाएगा, अर्थात्:—

[धारा 4 (3) का परंतुक, नियम 9 (4) और नियम 10 (1क) देखें]

आनुवंशिक क्लिनिक/अल्ट्रासाउंड क्लिनिक/इमेजिंग केन्द्र द्वारा प्रसव पूर्व जांच की दशा में अभिलेख रखे जाने का प्रारूप

भाग क : सभी नैदानिक प्रक्रियाओं/जांच के लिए भरे जाने के लिए

1. आनुवंशिक क्लिनिक/अल्ट्रासाउंड क्लिनिक/इमेजिंग केन्द्र का नाम और पूरा पता
2. रजिस्ट्रीकरण संख्या (गर्भधारणपूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 के अधीन)
3. रोगी का नाम आयु
4. कुल जीवित संतानों की संख्या
- (क) जीवित पुत्रों की संख्या, प्रत्येक की आयु (वर्ष या मास में)
- (ख) जीवित पुत्रियों की संख्या, प्रत्येक की आयु (वर्ष या मास में)
5. पति/पत्नी/पिता/माता का नाम
6. रोगी का पूरा पता, दूरभाष संख्या सहित, यदि कोई हो,
7. (क) चिकित्सक (चिकित्सक का पूरा नाम और पता/ आनुवंशिक परामर्शदाता केन्द्र) द्वारा निर्दिष्ट (निर्देश स्लीपों को प्रारूप च के साथ सावधानी-पूर्वक परिरक्षित रखना है)
- (ख) स्त्री रोग विशेषज्ञ/ विकिरणविज्ञानी/ रजिस्ट्रीकृत चिकित्सा व्यवसायी जो नैदानिक प्रक्रियाएं कर रहे हैं, द्वारा स्व-निर्देश (रोगी के निर्देश टिप्पण को मामले के कागज-पत्रों को प्रारूप च के साथ सावधानीपूर्वक परिरक्षित किया जाना है)
- (स्व-निर्देश से किसी ग्राहक द्वारा क्लिनिक में आना और जांच के लिए अनुरोध करना या गर्भवती महिला के नातेदारों) द्वारा जांच के लिए अनुरोध करना अभिप्रेत नहीं है)
8. पिछले रजोधर्म की अवधि या गर्भधारण के सप्ताह

भाग ख : केवल गैर-आक्रामक नैदानिक प्रक्रिया/जांच के लिए भरा जाना है

9. प्रक्रिया को करने वाले चिकित्सक का नाम

10. नैदानिक प्रक्रिया के लिए उपदर्शन

(निर्देश स्लिप या स्व-निर्देश टिप्पण में किए गए अनुरोध के संदर्भ में विनिर्दिष्ट करें।)

(अल्ट्रासोनोग्राफी प्रसवपूर्व निदान केवल तभी किया जाना चाहिए जब उपदर्शित किया गया हो। निम्नलिखित अल्ट्रासाउंड के लिए गर्भधारण के दौरान उपदर्शकों की प्रतिनिधित्वकारी सूची है) **(अल्ट्रासाउंड के लिए उपयुक्त उपदर्शक के सामने सही का निशान लगाएं)**

- i. अंतः गर्भाशय और/या अस्थानीय गर्भधारण और व्यवहार्यता का पता लगाने के लिए
- ii. गर्भधारण आयु का आकलन (तिथिकरण)
- iii. भ्रूणों की संख्या का पता लगाना और उनकी क्रमबद्धता
- iv. इनसीटू आई.यू.सी.डी. के साथ संभावित गर्भावस्था या गर्भनिरोधों की असफलता के परिणामस्वरूप संभावित गर्भधारण/ असफल गर्भ के चिकित्सीय समापन
- v. योनि रक्तस्राव/ रिसाव
- vi. गर्भपात के मामलों में अनुवर्ती प्रक्रिया
- vii. ग्रीवा नालिका का आकलन और आंतरिक ऑस का व्यास
- viii. गर्भाशय के आकार और मासिक धर्म की अवधि में भिन्नता
- ix. एडनेक्सल या गर्भाशय रोग-निदान की कोई संभावना/अनियमितता
- x. गुणसूत्र अनियमितताओं का पता लगाना, भ्रूण संरचना त्रुटियां और अन्य अनियमितताएं तथा उनका अनुवर्ती प्रक्रिया
- xi. भ्रूण और उसकी स्थिति का मूल्यांकन
- xii. लिकर अमनी का निर्धारण
- xiii. समयपूर्व प्रसव पीड़ा/ समयपूर्व झिल्ली का टूटना
- xiv. प्लेसेंटल प्रास्थिति, मोटाई ग्रेडिंग और अनियमितताओं (प्लेसेंटा प्रिविया, रेट्रोप्लेसेंटल रक्तस्राव, अनियमित अवलंबन, आदि) का मूल्यांकन
- xv. नाभि-रज्जु का मूल्यांकन - प्रस्तुतीकरण, सन्निवेश, नुक्कल एनसर्कलमेंट, वाहिकाओं की संख्या और टूनाट की उपस्थिति
- xvi. पूर्व के शल्यजन्य निशानों का मूल्यांकन

- xvii. भ्रूण की वृद्धि, भ्रूण के वजन और भ्रूण की कुशलता के मानकों का मूल्यांकन
- xviii. रंजक प्रवाह मापन और डूप्लेक्स डॉपलर अध्ययन
- xix. गर्भधारण का चिकित्सीय समापन, बाह्य सिफैलिक वर्सन आदि जैसी पराध्वनिनिदेशित प्रक्रियाएं और उनका अनुवर्ती प्रक्रिया
- xx. क्रमबद्ध अंकुर का नमूनाकरण (सीवीएस) उल्लेख, भ्रूण रक्त नमूनाकरण, भ्रूण चर्म वायोप्सी, अमनीयो इन्फ्युजन, इंट्रायूटेराइन इन्फ्युजन, संटों आदि का अवस्थिकरण जैसे डायग्नोस्टिक और उपचारात्मक इन्वेसिव मध्यक्षेपों से अनुलग्नक
- xxi. इंट्रापार्टम घटनाओं का अवलोकन
- xxii. गर्भावस्था को जटिल बनाने वाली चिकित्सा/शल्यक्रिया स्थितियां
- xxiii. मान्यताप्राप्त संस्थाओं में अनुसंधान/वैज्ञानिक अध्ययन ।
11. की गई प्रक्रियाएं (गैर-आक्रामक) (समुचित प्रक्रिया पर सही का निशान लगाएं)
- i. अल्ट्रासाउंड
- (महत्वपूर्ण टिप्पणः)** अल्ट्रासाउंड का परामर्श भ्रूण का लिंग उपदर्शित करने/ परामर्श देने के लिए नहीं दिया जाता है सिवाय डचेन मांसपेशी कूपोषण, अतिरक्तस्त्राव ए एवं बी आदि
- ii. कोई अन्य (विनिर्दिष्ट करें)
12. वह तारीख जब गर्भवती महिला/व्यक्ति की घोषणा अभिप्राप्त की गई थी
13. वह तारीख जब प्रक्रियाएं की गई
14. की गई गैर-आक्रामक प्रक्रियाओं का परिणाम (किए गए अल्ट्रासाउंड सहित जांच की संक्षिप्त रिपोर्ट)
15. प्रसवपूर्व नैदानिक प्रक्रियाओं के परिणाम को सूचित किया गया
16. नैदानिक प्रक्रियाओं/जांच में पता लगाई गई अनियमितता के आधार पर गर्भ के चिकित्सकीय समापन के लिए कोई उपदर्शन
- तारीख : **स्त्री रोग विशेषज्ञ/विकिरण विज्ञानी/ रजिस्ट्रीकृत चिकित्सा व्यवसायी जो नैदानिक प्रक्रियाओं को कर रहा है, का नाम, हस्ताक्षर और रजिस्ट्रीकरण संख्या सहित मुहर**
- स्थान :
- भाग ग : केवल आक्रामक प्रक्रियाएं/जांच करने के लिए भरा जाना है**
17. प्रक्रियाओं को करने वाले चिकित्सक का नाम
18. कुटुंब में आनुवंशिक/आयुर्विज्ञान रोगों का वृत्तान्त (विनिर्दिष्ट करें)

निदान का आधार (निदान के उचित आधार पर सही का निशान लगाएं)

(क) क्लिनिकल

(ख) जैव रसायनिक

(ग) कोशिका आनुवंशिकी

(घ) अन्य (उदाहरणार्थ विकिरण चिकित्सा विज्ञान, अल्ट्रासोनोग्राफी आदि - विनिर्दिष्ट करें)

19. नैदानिक प्रक्रिया के लिए उपदर्शन (उपयुक्त उपदर्शन पर सही का निशान लगाएं)

(क) निम्नलिखित सहित पूर्ववर्ती संतान

(i) गुणसूत्री विकार

(ii) उपापचयी विकार

(iii) जन्मजात विषमता

(iv) मानसिक निःशक्तता

(v) हीमोग्लोबिनोपैथी

(vi) यौन संबंधी विकार

(vii) एकल जीन विकार

(viii) कोई अन्य (विनिर्दिष्ट करें)

ख. अधिक मातृआयु (35 वर्ष)

ग. माता/पिता/ सहोदर भाई या बहन को आनुवंशिक रोग (विनिर्दिष्ट करें)

घ. अन्य (विनिर्दिष्ट करें)

20. वह तारीख जिसको गर्भधारणपूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 में विहित प्ररूप छ में गर्भवती महिला/व्यक्ति की सहमति अभिप्राप्त की गई है

21. की गई आक्रामक प्रक्रियाएं (समुचित पर सही का निशान लगाएं)

i. एम्नियोसेंटेसिस

ii. कोरिओनिक विल्ली एसपिरेशन

iii. भ्रूण बायोप्सी

iv. कोरडोसेंटेसिस

v. कोई अन्य (विनिर्दिष्ट करें)

22. आक्रामक प्रक्रिया की कोई जटिलताएं (विनिर्दिष्ट करें)

23. सिफारिश की गई अन्य जांच (कृपया वर्णन करें, यदि लागू हो)

i. गुणसूत्रीय अध्ययन

ii. जैव रसायनिक अध्ययन

iii. आणविक अध्ययन

iv. पूर्व प्रत्यारोपण लिंग निदान

v. कोई अन्य (विनिर्दिष्ट करें)

24. की गई प्रक्रियाओं/ जांचों का परिणाम (की गई आक्रामक जांच/प्रक्रियाओं की संक्षिप्त रिपोर्ट)

25. वह तारीख जब प्रक्रियाएं की गईं

26. प्रसवपूर्व नैदानिक प्रक्रियाओं के परिणाम को..... सूचित किया गया

27. नैदानिक प्रक्रियाओं/जांच में पता लगाई गई किसी अनियमितता के आधार पर गर्भ के चिकित्सीय समापन का कोई उपदर्शन

तारीख :

स्त्री रोग विशेषज्ञ/विकिरण विज्ञानी/ रजिस्ट्रीकृत चिकित्सा व्यवसायी जो नैदानिक प्रक्रियाओं को कर रहा है, का नाम, हस्ताक्षर और रजिस्ट्रीकरण संख्या सहित मुहर

स्थान:

भाग घ : घोषणा

उस व्यक्ति द्वारा की जाने वाली घोषणा जिसकी प्रसवपूर्व नैदानिक जांच/ प्रक्रिया की जा रही है मैं श्रीमती/श्री घोषणा करती हूँ/करता हूँ कि नैदानिक जांच/ प्रक्रिया करवाने से मैं अपने भ्रूण का लिंग नहीं जानना चाहती/चाहता हूँ

तारीख : प्रसवपूर्व नैदानिक जांच/ प्रक्रिया करवाने वाले व्यक्ति का हस्ताक्षर/ अंगूठा निशान

अंगूठा निशान की दशा में:

नाम..... द्वारा पहचान आयु लिंग ...

संबंध (यदि कोई हो) पता दूरभाष संख्या सहित

अभिप्रेमाणित करने वाले व्यक्ति के हस्ताक्षर तारीख

प्रसवपूर्व नैदानिक जांच/ प्रक्रिया करने वाले चिकित्सक/व्यक्ति की घोषणा

मैं (अल्ट्रासोनोग्राफी/ छायाचित्रण करने वाले व्यक्ति का नाम) घोषणा करता/करती हूँ कि श्रीमती/श्री (गर्भवती महिला या उस व्यक्ति जिसका प्रसवपूर्व नैदानिक प्रक्रिया/ जांच की जा रही है का नाम), का मैंने भ्रूण के लिंग की ना तो जांच की है ना ही उसका किसी व्यक्ति को किसी रीति में प्रकटन किया है।

तारीख :

हस्ताक्षर

स्त्री रोग विशेषज्ञ/विकिरण विज्ञानी/रजिस्ट्रीकृत चिकित्सा व्यवसायी जो नैदानिक प्रक्रियाओं को कर रहा है, का नाम (बड़े अक्षरों में) और रजिस्ट्रीकरण संख्या सहित मुहर

[फा.सं. वी.11011/6/2013-पीएनडीटी]

डा. राकेश कुमार, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र में सा.का.नि. 1(अ), तारीख 1 जनवरी, 1996 को प्रकाशित की गई थी और अधिसूचना सं. सा.का.नि. 109(अ) तारीख 14 फरवरी, 2003; सा.का.नि. 426(अ) तारीख 31 मई, 2011; सा.का.नि. 80(अ) तारीख 7 फरवरी, 2012; सा.का.नि. 418(अ) तारीख 4 जून, 2012 और सा.का.नि. 13 (अ) तारीख 9 जनवरी, 2014 द्वारा संशोधित की गई थी।

MINISTRY OF HEALTH AND FAMILY WELFARE

NOTIFICATION

New Delhi, the 31st January, 2014

G.S.R. 77 (E).—In exercise of the powers conferred by Section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules further to amend the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, namely :—

1. (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, for Form F, the following Form shall be substituted:

[See Proviso to Section 4(3), rule 9(4) and rule 10(1A)]

FORM FOR MAINTENANCE OF RECORD IN CASE OF PRENATAL DIAGNOSTIC TEST /PROCEDURE BY GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE

Section A: To be filled in for all Diagnostic Procedures/Tests

1. Name and complete address of Genetic Clinic/Ultrasound Clinic/Imaging centre: _____
2. Registration No. (Under PC & PNDT Act, 1994) _____
3. Patient's name _____ Age _____
4. Total Number of living children : _____
 (a) Number of living Sons with age of each living son (in years or months): _____
 (b) Number of living Daughters with age of each living daughter (in years or months) : _____
5. Husband's /Wife's/ Father's / Mother's Name : _____
6. Full postal address of the patient with Contact Number, if any _____
7. (a) Referred by (Full name and address of Doctor(s)/ Genetic Counseling Centre): _____
 (Referral slips to be preserved carefully with Form F)
- (b) **Self-Referral** by Gynaecologist/Radiologist/Registered Medical Practitioner conducting the diagnostic procedures: _____
 (Referral note with indications and case papers of the patient to be preserved with Form F)
(Self-referral does not mean a client coming to a clinic and requesting for the test or the relative/ requesting for the test of a pregnant woman)
8. Last menstrual period or weeks of pregnancy : _____

Section B: To be filled in for performing non-invasive diagnostic Procedures/ Tests only

9. Name of the doctor performing the procedure/s : _____

10. Indication/s for diagnosis procedure _____ (specify with reference to the request made in the referral slip or in a self-referral note)
 (Ultrasonography prenatal diagnosis during pregnancy should only be performed when indicated. The following is the representative list of indications for ultrasound during pregnancy. **(Put a “Tick” against the appropriate indication/s for ultrasound)**
- i. To diagnose intra-uterine and/or ectopic pregnancy and confirm viability.
 - ii. Estimation of gestational age (dating).
 - iii. Detection of number of fetuses and their chorionicity.
 - iv. Suspected pregnancy with IUCD in-situ or suspected pregnancy following contraceptive failure/MTP failure.
 - v. Vaginal bleeding/leaking.
 - vi. Follow-up of cases of abortion.
 - vii. Assessment of cervical canal and diameter of internal os.
 - viii. Discrepancy between uterine size and period of amenorrhea.
 - ix. Any suspected adnexal or uterine pathology/abnormality.
 - x. Detection of chromosomal abnormalities, fetal structural defects and other abnormalities and their follow-up.
 - xi. To evaluate fetal presentation and position.
 - xii. Assessment of liquor amnii.
 - xiii. Preterm labor / preterm premature rupture of membranes.
 - xiv. Evaluation of placental position, thickness, grading and abnormalities (placenta praevia, retro placental hemorrhage, abnormal adherence etc.).
 - xv. Evaluation of umbilical cord – presentation, insertion, nuchal encirclement, number of vessels and presence of true knot.
 - xvi. Evaluation of previous Caesarean Section scars.
 - xvii. Evaluation of fetal growth parameters, fetal weight and fetal well being.
 - xviii. Color flow mapping and duplex Doppler studies.
 - xix. Ultrasound guided procedures such as medical termination of pregnancy, external cephalic version etc. and their follow-up.
 - xx. Adjunct to diagnostic and therapeutic invasive interventions such as chorionic villus sampling (CVS), amniocenteses, fetal blood sampling, fetal skin biopsy, amnio-infusion, intrauterine infusion, placement of shunts etc.
 - xxi. Observation of intra-partum events.
 - xxii. Medical/surgical conditions complicating pregnancy.
 - xxiii. Research/scientific studies in recognized institutions.
11. Procedures carried out (Non-Invasive) (Put a “Tick” on the appropriate procedure)
- i. Ultrasound
(Important Note: Ultrasound is not indicated/advised/performed to determine the sex of fetus except for diagnosis of sex-linked diseases such as Duchene Muscular Dystrophy, Hemophilia A & B etc.)
 - ii. Any other (specify) _____
12. Date on which declaration of pregnant woman/ person was obtained : _____

13. Date on which procedures carried out: _____
14. Result of the non-invasive procedure carried out (*report in brief of the test including ultrasound carried out*) _____
15. The result of pre-natal diagnostic procedures was conveyed to _____ on _____
16. Any indication for MTP as per the abnormality detected in the diagnostic procedures/ tests _____

Date: _____ **Name, Signature and Registration Number with Seal of the Gynaecologist/Radiologist/Registered Medical Practitioner performing Diagnostic Procedure/s**

Place: _____

SECTION C: To be filled for performing invasive Procedures/ Tests only

17. Name of the doctor/s performing the procedure/s: _____
18. History of genetic/medical disease in the family (specify): _____ Basis of diagnosis ("Tick" on appropriate basis of diagnosis):
 (a) Clinical (b) Bio-chemical
 (c) Cytogenetic (d) other (e.g. radiological, ultrasonography etc.-specify)
19. Indication/s for the diagnosis procedure ("Tick" on appropriate indication/s):
 A. Previous child/children with:
 (i) Chromosomal disorders (ii) Metabolic disorders
 (iii) Congenital anomaly (iv) Mental Disability
 (v) Haemoglobinopathy (vi) Sex linked disorders
 (vii) Single gene disorder (viii) Any other (specify)
 B. Advanced maternal age (35 years)
 C. Mother/father/sibling has genetic disease (specify)
 D. Other (specify) _____
20. Date on which consent of pregnant woman / person was obtained in Form G prescribed in PC&PNDT Act, 1994 : _____
21. Invasive procedures carried out ("Tick" on appropriate indication/s)
 i. Amniocentesis ii. Chorionic Villi aspiration
 iii. Fetal biopsy iv. Cordocentesis
 v. Any other (specify)
22. Any complication/s of invasive procedure (specify) _____

23. Additional tests recommended (Please mention if applicable)
 (i) Chromosomal studies (ii) Biochemical studies
 (iii) Molecular studies (iv) Pre-implantation gender diagnosis
 (v) Any other (specify)
24. Result of the Procedures/ Tests carried out (*report in brief of the invasive tests/ procedures carried out*) _____

25. Date on which procedures carried out: _____
26. The result of pre-natal diagnostic procedures was conveyed to _____ on _____



27. Any indication for MTP as per the abnormality detected in the diagnostic procedures/ tests _____

Date : _____ Name, Signature and Registration Number with Seal of the Gynaecologist/Radiologist/Registered Medical Practitioner performing Diagnostic Procedure/s Place _____

SECTION D: Declaration

DECLARATION OF THE PERSON UNDERGOING PRENATAL DIAGNOSTIC TEST/ PROCEDURE

I, Mrs./Mr. _____ declare that by undergoing _____ Prenatal Diagnostic Test/ Procedure. I do not want to know the sex of my foetus.

Date: _____ Signature/Thumb impression of the person undergoing the Prenatal Diagnostic Test/ Procedure

In Case of thumb Impression:

Identified by (Name) _____ Age: _____ Sex: _____

Relation (if any): _____ Address & Contact No.: _____

Signature of a person attesting thumb impression: _____ Date: _____

DECLARATION OF DOCTOR/PERSON CONDUCTING PRE NATAL DIAGNOSTIC PROCEDURE/TEST

I, _____ (name of the person conducting ultrasonography/image scanning) declare that while conducting ultrasonography/image scanning on Ms./ Mr. _____ (name of the pregnant woman or the person undergoing pre natal diagnostic procedure/ test), I have neither detected nor disclosed the sex of her fetus to anybody in any manner.

Date: _____ Signature: _____

Name in Capitals, Registration Number with Seal of the Gynaecologist /Radiologist/Registered Medical Practitioner Conducting Diagnostic procedure

[F No. V.11011/6/2013-PNDT]

Dr RAKESH KUMAR, Jt. Secy.

Note : The principal notification was published in the Gazette of India, vide G.S.R 1 (E), dated the 1st January, 1996 and amended vide notification numbers G.S.R 109 (E), dated the 14th February, 2003; G.S.R 426 (E), dated the 31st May, 2011; G.S.R 80 (E), dated the 7th February, 2012; G.S.R 418 (E), dated the 4th June, 2012 and G.S.R 13(E), dated the 9th January, 2014.

ANNEX 6: PC&PNDT ACT AMENDMENT RULES 2014 (CONDUCT FOR ADVISORY COMMITTEES)

रजिस्ट्री सं० डी० एल०-33004/99

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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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NEW DELHI, WEDNESDAY, FEBRUARY 26, 2014/PHALGUNA 7, 1935

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 24 फरवरी, 2014

सा.का.नि.119(अ).—केन्द्रीय सरकार, गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 2014 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 में नियम 18 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात्:—

18क. समुचित प्राधिकारियों द्वारा अनुपालन की जाने वाली आचार संहिता-(1) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, निम्नलिखित साधारण आचार संहिता का पालन करेंगे, अर्थात्:—

- (i) सभी समय गरिमा और सत्यनिष्ठा बनाए रखेंगे;
- (ii) अधिनियम और नियमों के उपबंधों का पालन और कार्यान्वयन कार्य के प्रक्रम को संतुलित और मानकीकृत रीति में करेंगे ;
- (iii) अपने कार्य को न्यायसंगत रीति में बिना किसी पक्षपात या दोष की बोधगम्य उपधारणा से करेंगे;

- (iv) ऐसी टिप्पणियां करने से बचेंगे जो लिंग, जाति, धर्म के आधार पर व्यक्तियों को अप्रतिष्ठित करती हैं;
- (v) अपनी अनुपस्थिति में प्रशासनिक आदेश द्वारा अपनी शक्तियों को किसी प्राधिकृत अधिकारी को प्रदत्त करेंगे और प्राधिकृत करने के आदेश को अनुवर्ती कार्रवाई के लिए दस्तावेजी सबूत के रूप में परिरक्षित करेंगे।

(2) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, सलाहकार समितियों के लिए निम्नलिखित संहिता का पालन करेंगे, अर्थात्:—

- (i) इस बात का सुनिश्चय करेंगे कि सलाहकार समिति के पुनर्गठन, कार्यों और अन्य सुसंगत विषय सलाहकार समिति नियम, 1996 के उपबंधों के अनुसार होंगे;
- (ii) यह सुनिश्चित करेंगे कि कोई व्यक्ति जो गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) के अधीन मामलों के लिए अन्वेषण तंत्र का भाग है, को सलाहकार समिति के सदस्य के रूप में मनोनीत या नियुक्त नहीं किया जाएगा;
- (iii) यह सुनिश्चित करेंगे कि सलाहकार समिति में रिक्तियों को भरने की प्रक्रिया रिक्ति कारित होने की संभावित तारीख से कम से कम नब्बे दिन पूर्व आरंभ हो जाएगी;
- (iv) यह सुनिश्चित करेंगे कि सलाहकार समिति में कोई व्यक्ति सदस्य या विधिक विशेषज्ञ के रूप में भाग नहीं लेगा यदि उसका कोई हित का द्वन्द्व है;
- (v) रजिस्ट्रीकरण के नवीकरण, रद्दकरण और निलंबन के संबंध में विनिश्चयों का तेजी से निपटारा करने के लिए सलाहकार समिति की प्रायः बैठकें करेंगे।

(3) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, शिकायत और अन्वेषण करने के लिए निम्नलिखित साधारण आचरण का पालन करेंगे, अर्थात्:—

- (i) अधिनियम के अधीन प्रत्येक शिकायत या परिवाद के रजिस्ट्रीकरण के समर्थन में समुचित डायरियां रखेंगे;
- (ii) सभी शिकायतों को देखेंगे और शिकायतों की अनुवर्ती कार्रवाई में पारदर्शिता रखेंगे;
- (iii) शिकायत प्राप्त होने के 24 घंटे के भीतर सभी शिकायतों का अन्वेषण करेंगे और ऐसी शिकायत प्राप्त होने के 48 घंटे के भीतर अन्वेषण पूरा करेंगे;
- (iv) जहां तक व्यवहार्य हो, अधिनियम के अधीन मामलों के अन्वेषण के लिए पुलिस को शामिल नहीं करेंगे, क्योंकि अधिनियम के अधीन मामलों का विचारण, दंड प्रक्रिया संहिता, 1973 (1974 का 2) के अधीन शिकायत मामलों के रूप में किया जाता है।

(4) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, आवेदनों के रजिस्ट्रीकरण और नवीकरण के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—

- (i) नवीकरण और नए रजिस्ट्रीकरण के लिए आवेदन का आवेदन की प्राप्ति की तारीख से 70 दिन की अवधि के भीतर निपटान करेंगे;
- (ii) यह सुनिश्चित करेंगे कि रजिस्ट्रीकरण या नवीकरण के लिए किसी आवेदन को स्वीकार नहीं किया जाए यदि आवेदक के विरुद्ध किसी न्यायालय में कोई मामला लंबित है।

(5) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, विधिक कार्रवाई के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—

- (i) यह सुनिश्चित करेंगे कि साक्षियों के संरक्षण और व्यय संग्रहित रजिस्ट्रीकरण रकम में से चुकाए जाएंगे;
- (ii) यह सुनिश्चित करेंगे कि सरकार की सभी अधिसूचनाओं को न्यायालय में मूल रूप में प्रस्तुत किया जाए और उनकी एक प्रति को परिरक्षित किया जाएगा;

- (iii) यह सुनिश्चित करेंगे कि मामले फाइल करते समय मामले के सभी कागज पत्र, अभिलेख, विवरणियां, साक्ष्य पंचनामा और मामले की फाइल से उपाबद्ध अन्य तात्त्विक वस्तुएं मूल रूप में हों;
- (iv) प्रसुविधा के अभिग्रहण और सील करने में विधिक कार्रवाई के प्रक्रम में रजिस्ट्रीकरण के प्रमाण पत्र को निलंबित कर दिया जाए;
- (v) यह सुनिश्चित करेंगे कि गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 के उपबंधों को कार्यान्वित करते समय, गर्भ का चिकित्सीय समापन अधिनियम, 1971 (1971 का 34) और उसके अधीन बनाए गए नियमों के उपबंधों का कोई उल्लंघन न हो;
- (vi) दोषमुक्ति के किसी आदेश की दशा में दोषमुक्ति से तीस दिन के भीतर किंतु दोषमुक्ति के आदेश की प्राप्ति के पंद्रह दिन से पूर्व उच्चतर न्यायालयों में अपील फाइल करने के लिए, पुनरीक्षण या अन्य कार्यवाहियों के लिए तुरंत कार्रवाई करेंगे।

(6) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, राज्य सरकार के माध्यम से भारत सरकार को त्रैमासिक प्रगति रिपोर्ट प्रस्तुत करेंगे और किए गए सभी रजिस्ट्रेशनों की सूचना को तुरंत रूप से उपलब्ध कराने के लिए प्ररूप ज में रखेंगे।

(7) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ- साथ, अल्ट्रासाउंड उपस्करों के निम्नलिखित विनियम का पालन करेंगे, अर्थात्:—

- (i) अल्ट्रासाउंड मशीनों के विक्रय और आयात जिसके अंतर्गत पोर्टेबल या वापस-क्रय, असेम्बलड, उपहार की गई, स्कैप या डेमो भी शामिल हैं, की निगरानी करना;
- (ii) अल्ट्रासाउंड विनिर्माताओं, डीलरों, थोक विक्रेताओं और खुदरा विक्रेताओं तथा अल्ट्रासाउंड मशीनों के विक्रय से संबंधित किसी व्यक्ति से राज्य स्तर पर नियमित त्रैमासिक रिपोर्टों का सुनिश्चय;
- (iii) अरजिस्ट्रीकृत मशीनों की पहचान करने के लिए राज्य या जिले में विक्रय की गई और प्रचालन कर रही सभी अल्ट्रासाउंड मशीनों का आवधिक सर्वेक्षण और परीक्षण संचालित करना;
- (iv) अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के स्वामी और अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के विक्रेता के विरुद्ध शिकायत फाइल करना;

(8) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, निरीक्षण और निगरानी के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—

- (i) सभी रजिस्ट्रीकृत प्रसुविधाओं का प्रत्येक नब्बे दिन में एक बार नियमित निरीक्षण करेंगे और निरीक्षण रिपोर्ट की एक प्रति का दस्तावेजी साक्ष्य के रूप में परिरक्षण करेंगे और निरीक्षण की एक प्रति निरीक्षण की गई प्रसुविधा के स्वामी को सौंपेंगे तथा निरीक्षण के संबंध में अभिस्वीकृति अभिप्राप्त करेंगे;
- (ii) तीन मास में एक बार सभी निरीक्षण रिपोर्टों को अनुवर्ती कार्रवाई के लिए सलाहकार समिति के समक्ष रखेंगे;
- (iii) फाइल किए गए मामलों की संख्या और सिद्धदोष ठहराए गए व्यक्तियों, किए गए रजिस्ट्रीकरण, निलंबित या रद्द किए गए रजिस्ट्रीकरण, रद्द या निलंबित की गई चिकित्सा अनुज्ञप्तियां, किए गए निरीक्षण, जिला स्तर पर आयोजित की गई सलाहकार समिति की बैठकों की द्विमासिक प्रगति रिपोर्ट रखेंगे और राज्य स्तर पर त्रैमासिक प्रगति रिपोर्ट रखेंगे;
- (iv) (क) 7 दिन के अंदर विरचित आरोपों की प्रति प्राप्त करेंगे तथा चिकित्सकों की दशा में विरचित आरोपों के ब्यौरों को विरचित आरोपों की प्रति की प्राप्ति के 7 दिन के भीतर राज्य चिकित्सा परिषद् को प्रस्तुत करेंगे;
- (ख) यथा संभव शीघ्र सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति प्राप्त करेंगे और चिकित्सकों को सिद्धदोष ठहराए जाने की दशा में सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति, सिद्धदोष ठहराए जाने के आदेश की प्रति की प्राप्ति के 7 दिन के भीतर प्रस्तुत की जाएगी।

(9) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, जवाबदेही के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:-

- (i) अधिनियम के उपबंधों के कार्यान्वयन से संबंधित किसी संकल्प के लिए भारत सरकार की पूर्व अनुमति या अनुमोदन प्राप्त करेंगे;
 - (ii) अधिनियम की धारा 28 की उप-धारा (1) के खंड (ख) के अधीन सूचना की प्राप्ति पर यदि कोई अपेक्षित हो तो, तुरंत कार्रवाई करेंगे और यदि ऐसा करने में वह असमर्थ रहता है या रहती है तो वह उक्त अधिनियम की धारा 31 के अधीन संरक्षण का हकदार नहीं होगा और वह अपनी स्वयं की क्षमता एवं लागत पर मामले का बचाव करेगा।
- (10) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, निम्नलिखित वित्तीय मार्गदर्शक सिद्धांतों का पालन करेंगे, अर्थात्:—
- (i) सभी स्तरों पर संयुक्त रूप से दो अधिकारियों द्वारा परिचालित पृथक् और स्वतंत्र बैंक खाता रखेंगे;
 - (ii) धन के संवितरण के लिए पारदर्शिता को सुनिश्चय करेंगे और मानक सरकारी वित्तीय संनियमों का पालन करेंगे।

[फा.सं. वी.11011/8/2013-पीएनडीटी]

डा. राकेश कुमार, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, भाग II, खंड 3, उप-खंड (i) में सा.का.नि. 1(अ), तारीख 1 जनवरी, 1996 को प्रकाशित की गई थी और अधिसूचना सं. सा.का.नि. 109(अ) तारीख 14 फरवरी, 2013; सा.का.नि. 426(अ) तारीख 31 मई, 2011; सा.का.नि. 80(अ) तारीख 7 फरवरी, 2012, सा.का.नि. 418(अ) तारीख 4 जून, 2012, सा.का.नि. 13(अ) तारीख 9 जनवरी, 2014 और सा.का.नि. 77(अ) तारीख 31 जनवरी, 2014 द्वारा संशोधित की गई थी।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

NOTIFICATION

New Delhi, the 24th February, 2014

G.S.R. 119(E).—In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules further to amend the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, namely :—

- (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, after rule 18, the following rule shall be inserted, namely:—

18-A Code of Conduct to be observed by Appropriate Authorities.— (1) **All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following general code of conduct, namely:-**

- (i) maintain dignity, and integrity at all times;
- (ii) observe and implement the provisions of the Act and Rules in a balanced and standardised manner in the course of their work;
- (iii) conduct their work in a just manner without any bias or a perceived presumption of guilt;

- (iv) refrain from making any comments which demean individuals on the basis of gender, race, religion ;
- (v) delegate his or her powers by administrative order to any authorised officer in his or her absence and preserve the order of authorisation as documentary proof for further action.

(2) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following Conduct for Advisory Committees, namely:—

- (i) ensure that the re-constitution, functions and other relevant matters related to advisory committee shall be in accordance with the provisions of the **Advisory Committee Rules, 1996**;
- (ii) ensure that a person who is the part of investigating machinery in cases under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), shall not be nominated or appointed as a member of the Advisory Committee ;
- (iii) ensure that the process of filling up of vacancies in Advisory Committee shall start at least ninety days before the probable date of the occurrence of vacancy;
- (iv) ensure that no person shall participate as a member or a legal expert of the Advisory Committee if he or she has conflict of interest;
- (v) conduct frequent meetings of the Advisory Committee to expedite the decisions regarding renewal, cancellation and suspension of registration.

(3) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for processing of complaint and investigation, namely:—

- (i) maintain appropriate diaries in support of registration of each of the complaint or case under the Act ;
- (ii) attend to all complaints and maintain transparency in the follow-up action of the complaints;
- (iii) investigate all the complaints within twenty four hours of receipt of the complaint and complete the investigation within forty-eight hours of receipt of such complaint;
- (iv) as far as possible, not involve police for investigating cases under the Act as the cases under the Act are tried as complaint cases under the Code of Criminal Procedure, 1973 (2 of 1974).

(4) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for registration and renewal of applications under the Act, namely:—

- (i) dispose of the application for renewal and new registration within a period of seventy days from the date of receipt of application;
- (ii) ensure that no application for fresh registration or renewal is accepted if any case is pending in any court against the applicant.

(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:—

- (i) ensure that protection and expenses of witness shall be met from the registration amount collected ;
- (ii) ensure that all the notifications of the Government be produced in original in the court and a copy of the same be preserved ;
- (iii) ensure that while filing the cases, all the papers, records, statements, evidence, panchnama and other material objects attached to the case file shall be in original;
- (iv) suspend the certificate of registration in the course of taking legal action of seizure and sealing of the facility;
- (v) ensure that there shall be no violation of the provisions of the Medical Termination Pregnancy Act, 1971 (34 of 1971) and the Rules made there-under while implementing the provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996;
- (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.

(6) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall submit quarterly progress report to the Government of India through State Government and maintain Form H for keeping the information of all the registrations made readily available.

(7) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following regulation of ultrasound equipments, namely:—

- (i) monitor the sales and import of ultrasound machines including portable or buyback, assembled, gift, scrap or demo;
- (ii) ensure regular quarterly reports from ultrasound manufacturers, dealers, wholesalers and retailers and any person dealing with the sales of ultrasound machines at the State level;

- (iii) conduct periodical survey and audit of all the ultrasound machines sold and operating in the State or district to identify the unregistered machines;
- (iv) file complaint against any owner of the unregistered ultrasound machine and against the seller of the unregistered ultrasound machine.

(8) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for inspection and monitoring, namely:—

- (i) conduct regular inspection of all the registered facilities once in every ninety days and shall preserve the inspection report as documentary evidence and a copy of the same be handed over to the owner of facility inspected and obtain acknowledgement in respect of the inspection;
- (ii) place all the inspection reports once in three months before the Advisory Committee for follow up action;
- (iii) maintain bimonthly progress report containing number of cases filed and persons convicted, registration made, suspended or cancelled, medical licenses cancelled, suspended, inspections conducted, Advisory Committee meetings held at the district level and quarterly progress report at the State level;
- (iv) (a) procure the copy of the charges framed within seven days and in the case of doctors, the details of the charges framed shall be submitted within seven days of the receipt of copy of charges framed to the State Medical Council;
(b) procure the certified copy of the order of conviction as soon as possible and in the case of conviction of the doctors, the certified copy of the order of conviction shall be submitted within seven days of the receipt of copy of the order of conviction.

(9) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for accountability, namely:—

- (i) obtain prior sanction or approval of the Government of India for any resolution concerning the implementation of the provisions of the Act ;
- (ii) take action, if any, required under the Act and immediately on receipt of notice under clause (b) of sub-section (1) of section 28 of the Act and if he or she fails to do so, shall not be entitled for the protection under section 31 of the said Act and defend the case in his or her own capacity and at his or her own cost.

(10) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall follow the following financial guidance, namely:—

- (i) maintain a separate and independent bank account operated by two officers jointly, at all levels ;
- (ii) ensure transparency and adherence to standard Government financial norms for disbursement of money.

[F. No. V. 11011/8/2013-PNDT]
Dr. RAKESH KUMAR, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i), vide G.S.R 1(E), dated the 1st January, 1996 and amended, by notification No. G.S.R. 109(E), dated the 14th February, 2003; G.S.R. 426(E), dated the 31st May, 2011; G.S.R. 80(E), dated the 7th February, 2012; G.S.R. 418(E), dated the 4th June, 2012; G.S.R. 13(E), dated the 9th January, 2014 and G.S.R. 77(E) dated 31st January, 2014.

ANNEX 7. PC&PNDT AMENDMENT BILL, 2016

F.No.V.11011/01/2013-PNDT (Pt-3)
Government of India
Ministry of Health & Family Welfare
PNDT Division

....

Nirman Bhawan, New Delhi
Dated the of March, 2016

Ministry of Health & Family Welfare, Government of India is proposing to bring some amendments in provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. A copy of the minutes of the meeting of the Expert Committee constituted to examine the proposed amendments in the PC & PNDT Act, 1994 and amendments by the Expert Committee are enclosed herewith. *discussed*

The views /Suggestions from the stakeholders and general public is solicited and the same may be sent through email on sopndt-mohfw@gov.in on or before 21st March, 2016.

BS 7/3/16
(Bindu Sharma)
Director
Tele: 23061333

Encl.: As above

Minutes of the meeting of the Expert Committee constituted to examine the proposed amendments in the provisions of the Pre-conception and Pre-natal Diagnostic Technique Act, held under the Chairmanship of JS (RCH) on 24th November, 2015 at Committee Room No. 151, A wing, Nirman Bhawan, New Delhi

As per the decision of the 23rd meeting of the Central Supervisory Board, an Expert Committee was constituted to re-examine the proposed amendments in the provisions of the Act with a view to make them more effective in preventing Gender Biased Sex Selection. The first meeting of the Expert Committee was held under the Chairmanship of Dr. Rakesh Kumar, Joint Secretary (RCH), at 2.30 pm. List of the proposed amendments in the provisions of the Act is at Annexure B. List of the participants is at Annexure A.

Welcoming the participants, Dr. Rakesh Kumar, JS (RCH) apprised the Committee about the evolutionary process in arriving at the proposed list of amendments at *Annexure B* in the provisions of the Act. It was informed that the Central Supervisory Board in its 19th meeting felt the need to evaluate the provisions of the Act and the rules and directed the constitution of a Committee with an objective to strengthen the implementation of PC&PNDT Act and to regulate the misuse of medical diagnostic technologies leading to female foeticide. The proposed list of amendments is the outcome of the long consultations so far.

Dr. Rakesh Kumar, JS(RCH) summarized the objectives of the meeting and informed that the Committee needs to examine the proposed list of amendments and propose appropriate amendments that can ensure the effective regulation of Pre-conception and Pre Natal Diagnostic Techniques to curb the unethical and criminal practice of sex selection, without creating practical problems to medical doctors. He also updated the members about the procedure involved in the process of amendments and said that any amendment proposed/ recommended by the Committee will be placed before the CSB and if approved by the Board, further action will be taken for obtaining final approval of the Parliament.

All the members were then invited by Dr. Rakesh Kumar, JS (RCH) to provide their inputs and deliberate on the suggestions received from the CSB members, one by one, on the proposed amendments of the provisions of the Act.

PREAMBLE:

Discussing the Preamble, Dr. K. K. Agarwal, Secretary IMA said that the “**Detection**” word used in the Act could be replaced by “**Disclosure**” since prenatal diagnostic techniques have the potential of inadvertently detecting the sex of the foetus, especially, while diagnosing the sex related genetic disorders. He further said that the prohibition is on communicating the sex of the foetus and not on detection. Responding to the arguments put forward by Dr. K. K. Agarwal, members said that the word **Detection** used in the PC&PNDT Act has to be read in the context of its intentional misuse and need not be deleted from the Act.

For the proposed amendment to replace “**leading to female foeticide**” and “**abortion**” by “**Sex Selective Termination of Pregnancy**”, Mr Naveen Jain, Mission Director of Government of Rajasthan was of the opinion that “**leading to female foeticide**” may be retained as this terminology helps to use related IPC provisions to catch the culprits under the law.

CHAPTER I, Section 2(g):

Regarding the revised definition of **Medical Geneticist**, Dr. Rakesh Kumar, JS (RCH) briefed the members that this definition has been developed in consultation with an Expert Committee.

In response to this proposed amendment, the Ministry of Women and Child Development had earlier suggested that the definition could be reframed; however, this suggestion was turned down by the Committee on the ground that enough deliberations has been done by a dedicated committee for this purpose and the definition may be endorsed as it is.

In this regard, Dr. K. K. Agarwal sought clarification whether **Medical Geneticist** is allowed to use ultrasound machines under this Act or not. Responding to the query, it was informed that under Rule 3 (3) (1) (b) of the PC& PNDT Rules, clear provisions have been laid down for qualification of using ultrasound machine.

CHAPTER II, Section 3B:

The Committee recommended that a separate provision for buyback needs to be included in this section, since the companies that take ultrasound equipments in buy back arrangements are not registered and such transfer as per the proposed amendment will be illegal.

The Committee also raised the issues of dismantling and discarding of old and redundant ultrasound machines ^{as} the provisions that do not have any mention in the PC&PNDT Act. On this, JS (RCH) apprised that MOHFW has sought detailed guidelines under E-waste regulation from the Ministry and of Environment, Forests and Climate Change, and they have communicated that the import/ export of all kind of second hand **Electrical and Electronic Equipment (EEE)** including any kind of medical equipment are presently regulated under **Schedule IIIB (B1110) of Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008**. The issue of regulation of refurbished machines was also discussed and, it was suggested that this area also needs to be regulated.

CHAPTER III, Section 6:

The insertion of sub-sections 6 (1) (a) & (b) in the section 6 of the PC&PNDT Act, to ensure the prevention of misuse of prenatal diagnostic techniques by the Appropriate Authority was unanimously agreed upon by the Expert Committee.

<p>Section 6: Determination of sex prohibited</p>	<p><i>Insertion of Section 6 (1) as :-</i> Prevention of misuse of prenatal diagnostic techniques: (a) Every Appropriate Authority shall prevent and may interpose for the purpose of preventing, and shall to the best of his ability, prevent the misuse of pre-natal diagnostic techniques and commission of any offence under the Act. (b) Appropriate Authority may, if it thinks fit, for purpose of preventing commission of any offence under the Act, obtain a bond from the concerned person giving undertaking that he will not indulge into misuse of pre-natal diagnostic techniques.</p>
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CHAPTER VII Section 23:

Section 23 was discussed at length and by the Committee. It was suggested that the line “**who contravenes any of the provisions of this Act or Rule made thereunder**” in the section may be replaced by “**who indulges in or assists or aids Sex Determination/ selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4**”.

<p>Section 23: Offences and Penalties</p> <p>Section 23 (1): Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory or clinic or render his professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rule made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.</p>	<p>Section 23 (1):- May read as “Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory or clinic or render his professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and “who contravenes any of the provisions of this Act or Rule made thereunder” may be replaced by “who indulges in or assists or aids Sex Determination/ selection or for conducting pre-natal diagnostic techniques on any person for the purposes other than those specified in sub-section (2) of Section 4”. shall be punishable with imprisonment for a term which shall not be less than three years and with fine which may extend to fifty thousand rupees and on any subsequent conviction, with imprisonment which shall not be less than five years and with fine which may extend to one lakh rupees.</p> <p><u>Insertion of Section 23(1)(a).as :-</u> Any person who shall not abide by the following prescribed norms including: (a) Wearing apron with proper name plate while performing diagnostic procedure , (b) Putting up-sign board disclaiming sex selection at a prominent place in the clinic. (c) Copy of PNDT Act always present in the clinic shall be punishable with a fine of not less than one thousand rupees and in case of continuing contravention with an additional fine of not less than five hundred rupees for every day.</p>
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ction 25: The Committee deliberating on Section 25 suggested that it is not required to mention the provision of the Indian Forest Act and mere adoption of its provision would be appropriate. This would entail confiscation of the equipment used for the commission of offence in case of continuous contravention,

<p>Section 25: Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided: Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contraventions with and additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction of the first such contravention.</p>	<p>Section 25: <u>May read as</u> Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided: Under Section 25, fine may extend to Rs10,000/- and in the case of continuous contravention, with an additional fine which may extend to Rs.1,000/- every day during which such contravention continues. <u>In case of continuous contravention sonography machine and other equipment used for commission of offence shall also be confiscation.</u></p>
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Section 26: The proposed amendment was considered very appropriate, as the Committee felt that such a provision will increase the accountability on the part of manufacturers. The Committee also discussed the suggestion made by Government of West Bengal to include another provision in the same section that will mandate the manufacturing companies to submit the sales reports regularly. The Committee suggested that an additional provision of (3) (B) in Section 26 may be included, as suggested by the Government of West Bengal.

<p>Section 26: Offences by the companies</p>	<p><u>Insertion of Section 26 (3) as:</u> When any offence punishable under this Act has been committed by a Company, it should be liable to a punishment of not less than 3 years and a fine not less than 25 lakhs.</p> <p><u>Addition of 26(3)(B) as:</u> Any Company that refuses or fails to provide sales details of USG machine and other imaging equipments to centre Government and the respective State or District Appropriate Authority on quarterly basis, or else as desired, will be punishable with a fine of not less than Rs 5 lakhs and in the case of continuous contravention, with an additional fine which may extend to Rs.5,000/- for every day during which such contravention continues.</p>
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Section 31: The Committee unanimously agreed upon this amendment without any change. The meeting concluded on the note that the Committee will analyze and review the compiled suggestions further and recommend the appropriate and suitable amendments for the approval of CSB.

<p>Section 31:</p> <p><i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act</p>	<p>Section 31: <u>May read as</u></p> <p><i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by Authority or by any person including social organization which has made complaint to the Court under Section 28 (1)(b) of the Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.</p>
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Besides the discussions on the proposed amendments, the role of police in the implementation of PC&PNDT Act was also discussed. Mr Naveen Jain vehemently supported the role of police on the basis of his state experience in implementing the PC&PNDT Act whereas representatives of IMA, FOGSI and IRIA had their reservations. They quoted PCPNDT Rules also which mention involvement of Police may as far as possible be avoided. Representatives of Maharashtra were of the view that the police have to be involved in the investigation and for maintaining law and order during inspections. Dr. Rakesh Kumar JS (RCH) in this regard said that the role of the police in the implementation of the Act has to be clearly defined since Section 27 of the PC&PNDT Act identifies every offence under the PC&PNDT Act as cognizable. JS further deliberated that the Police may be involved right from inspection, investigation and filing of case in the Court. This would ensure better prosecution besides having deterrent effect on the offenders and ensure smooth inspection, seal and seizures on the spot. Accordingly, a provision needs to be suitably incorporated in the PC&PNDT Act and Rules after due legal consultation.

The meeting ended with thanks to the Chair.

Annexure A

LIST OF PARTICIPANTS

1. Dr. Rakesh Kumar, Joint Secretary (PNDT), MOHFW
2. Mr. Naveen Jain, Mission Director & SAA, Govt. of Rajasthan
3. Mr. Birsingh Majhi, Asst. Legal Advisor Department of Legal Affairs,
Ministry of Law & Justice
4. Mr. V.V. B Raju, Deputy Secretary, National Commission for Women
5. Dr. A. O. Khade, State Family Welfare Pune, Govt. of Maharashtra
6. Dr. V.K. Goyal, Member Expert Committee, Govt. of Punjab
7. Dr. A. Marthanda Pillai, President IMA
8. Dr. Prakash Trivedi, President FOGSI
9. Dr. Jignesh Thakkar, IRIA
10. Dr. O. P. Bansal, IRIA
11. Dr. K.K. Aggarwal, Secretary IMA
12. Mr. Deepak Kumar, IRIA
13. Mr. Krishna Ram Esharwal, State Nodal Officer, Govt. of Rajasthan
14. Mrs. Bindu Sharma Director(PNDT)
15. Mr. D.K.Sahu, US- PNDT, MOHFW

Annexure B

**AMENDMENTS PROPOSED BY THE EXPERT COMMITTEE
CONSTITUTED TO RE-EXAMINE THE PROVISIONS OF THE ACT**

	Existing provision of PC & PNDT Act	Proposed amendments
PREAMBLE:		
1.	Statement of Objects and Reason: Point No. (i): prohibition of the misuse of pre natal diagnostic techniques for determination of sex of the foetus, leading to female foeticide;	<u>Point No. (i): May read as</u> (i) prohibition of the misuse of pre natal diagnostic techniques for determination of sex of the foetus, leading to sex selective elimination of foetus leading to decline in child sex ratio
2.	Statement of Objects and Reason: Point No. (iii) permission and regulation of the use of Pre Natal Diagnostic Techniques for the purpose of detection of specific genetic abnormalities or disorders;	<u>Point No. (iii): May read as</u> (iii) prohibition and prevention of the misuse of Pre Natal Diagnostic Techniques for detection or determination of sex;
3.	Use of appropriate terms for- “leading to female foeticide” and “Abortion”	<u>Terms to be replaced as</u> 1. “Sex selective termination of pregnancy”.
CHAPTER I		
4.	Section 2(g): “ medical geneticist” includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in any of these fields after obtaining – (i) Any one of the medical qualifications recognised under the Indian Medical Council Act,1956; or (ii) A post-graduate degree in biological sciences;	"medical geneticist" is defined as a person who has DM/ MD in Medical Genetics recognized by MCI or has worked/done research for not less than five years in a recognized university or institute or has obtained a doctorate degree in the area of clinical or medical or human genetics after obtaining: (i) Medical qualifications recognized under the Indian Medical Council Act, 1956 (102 of 1956); Or (ii) A recognized post graduate degree in subjects like Zoology/ Molecular Biology/ Human Genetics/ Bio-chemistry/ Bio-

		technology, Biomedical sciences and Biosciences /Life sciences
CHAPTER II		
5.	<p>Section 3B: <i>Prohibition on sale of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.</i> - No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counseling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.</p>	<p><i>Prohibition on sale <u>or otherwise transfer</u> of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.</i>- No person shall sell <u>or in any other manner transfer</u> any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counseling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.</p>
CHAPTER III		
6.	<p>Section 6: Determination of sex prohibited</p>	<p><u>Insertion of Section 6 (1) as :-</u> Prevention of misuse of prenatal diagnostic techniques: (a) Every Appropriate Authority shall prevent and may interpose for the purpose of preventing, and shall to the best of his ability, prevent the misuse of pre-natal diagnostic techniques and commission of any offence under the Act. (b) Appropriate Authority may, if it thinks fit, for purpose of preventing commission of any offence under the Act, obtain a bond from the concerned person giving undertaking that he will not indulge into misuse of pre-natal diagnostic techniques.</p>
CHAPTER VII		
7.	<p>Section 23: Offences and Penalties Section 23 (1): Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory or clinic or render his</p>	<p><u>Section 23 (1):- May read as</u> “Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory</p>

Annexure B

	<p>professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rule made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.</p>	<p>or clinic or render his professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rule made thereunder shall be punishable with imprisonment for a term which shall not be less than three years and with fine which may extend to fifty thousand rupees and on any subsequent conviction, with imprisonment which shall not be less than five years and with fine which may extend to one lakh rupees.</p> <p><u>Insertion of Section 23(1)(a).as :-</u> Any person who shall not abide by the following prescribed norms including: (a) Wearing apron with proper name plate while performing diagnostic procedure , (b) Putting up-sign board disclaiming sex selection at a prominent place in the clinic. (c) Copy of PNDT Act always present in the clinic shall be punishable with a fine of not less than one thousand rupees and in case of continuing contravention with an additional fine of not less than five hundred rupees for every day.</p>
<p>8.</p>	<p>Section 25: Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided: Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of</p>	<p>Section 25: <u>May read as</u> Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided: Under Section 25, fine may extend to Rs10,000/- and in the case of continuous contravention, with an additional fine which may extend to Rs.1,000/- for every day during which such contravention continues. Confiscation of sonography machine and other equipment used for commission of offence maybe</p>

Annexure B

	continuing contraventions with and additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction of the first such contravention.	provided as per provision of Section 55 of the Indian Forest Act,1927. *
9.	Section 26: Offences by the companies	<u>Insertion of Section 26 (3) as:</u> When any offence punishable under this Act has been committed by a company it should be liable to a punishment of not less than 3 years and a fine not less than 25 lakhs
10.	Section 31: <i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act	Section 31: <u>May read as</u> <i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by Authority or by any person including social organization which has made complaint to the Court under Section 28 (1)(b) of the Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

* **Section 55 in The Indian Forest Act, 1927:** *Forest- procedure, tools, etc., when liable to confiscation.*

(1) *All timber or forest- produce which is not the property of Government and in respect of which a forest- offence has been committed, and all tools, boats, carts and cattle used in committing any forest- offence, shall be liable to confiscation.*

(2) *Such confiscation may be in addition to any other punishment prescribed for such offence.*

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