



DELHI: DISABLING THE GIRL CHILD?



ASIAN CENTRE FOR HUMAN RIGHTS



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1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Among the States and Union Territories (UTs) of India, Delhi has the 4th worst record of Child Sex Ratio¹ (CSR) as per 2011 census.² The CSR of Delhi declined sharply by 47 points from 915 in 1991 census³ to 868 during 2001 census. It showed marginal recovery by 3 points to 871 during 2011 census but still way behind the national level CSR of 919 during 2011 census.⁴ While in 1991, all the nine districts of Delhi had CSR above 900 but as per 2011 census, the Central district was the only district to record CSR above 900.⁵

The Sex Ratio at Birth (SRB), which gives more accurate picture of sex selection, drastically came down from 867 females per 1000 males in 1991 to 809 females by 2001. The situation reversed in 2008 with an unprecedented birth of 1004 females per 1000 males. The Government of NCT of Delhi claimed success “*due to implementation of girl child related welfare scheme, particularly Ladli Scheme implemented with effect from 01/01/2008*”.⁶ But in the following year (2009) the SRB fell sharply by 89 points to 915 and further dropped to 901 in 2010, 893 in 2011 and 886 in 2012 while it marginally improved to 895 in 2013, 896 in 2014 and 898 in 2015.⁷ None claimed responsibility for the fall in the SRB in all these years. If the existing under-

1. Child sex ratio is the number of girls per thousand boys in the age group 0-6 years.

2. 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>

3. Ministry of Health and Family Welfare, Government of India, “Annual Report 2006: Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act”, P.4, <http://pndt.gov.in/writereaddata/mainlinkfile/File99.pdf>

4. 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>

5. <http://wcd.nic.in/Schemes/research/savegirlchild/1.pdf>

6. Government of NCT of Delhi, Directorate of Economics & Statistics, and Office of the Chief Registrar (Births and Deaths), “Annual Report on Registration of Births & Deaths in Delhi 2009”, available at <http://www.delhi.gov.in/wps/wcm/connect/f8bb110048ec306f9f519fb2120f29ae/B+%26+D+2009.pdf?MOD=AJPERES&lmod=-927795206&CACHEID=f8bb110048ec306f9f519fb2120f29ae>

7. Ibid.

five mortality rate of 48 deaths per 1,000 births⁸ in India is applied in the context of NCT of Delhi, the CSR will further drastically fall below 871 as per 2011 census.

There is little seriousness on the part of the Government of NCT of Delhi to address female foeticide leading to skewed sex ratio.

The SRB of Delhi indicates that the *Ladli* Scheme, the main programme of the Government of NCT of Delhi for retention of the girl child, has not been having the desired impact as summarized below:

First, as per the Comptroller and Auditor General (CAG) of India, “*the [Ladli] scheme was launched without having data of intended beneficiaries to be covered under the scheme and without fixing any annual target, financial or physical*” and without identifying the roles of stakeholders viz. Department of Education, Department of Social Welfare and Department of Health.

Second, the primary targets of the *Ladli* Scheme are the socially and economically backward sections of society⁹ i.e. those below the poverty line. However, son preference cuts across economic barriers and indeed, those financially well-off have the capacity to engage more in sex selection than the poor. With 90% of the population of Delhi being Above Poverty Line (APL) families as per the latest Economic Survey of Delhi tabled in the Delhi Assembly on 24 June 2015,¹⁰ about 90% of the population are indeed excluded from the *Ladli* scheme.

Third, the requirement of renewal of the scheme at each milestone i.e. at the time of birth and admissions in different classes i.e. Class I, VI, IX, X and XII had been found to be so cumbersome that many dropped out of the scheme. As per the report of the CAG, about 42% of beneficiary girls were

8. 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>

9. Only girl children whose parents' annual income is less than rupees one lakh are eligible to apply.

10. Delhi sees decline in poverty rate, The Economic Times, 24 June 2015, http://articles.economictimes.indiatimes.com/2015-06-24/news/63783247_1_poverty-rate-poverty-line-urban-delhi

dropped from the *Ladli* Scheme due to non-renewal of their cases at different stages during 2010-11 to 2011-12. Out of 1,25,808 cases due for renewal, only 73,108 cases i.e. 58.11% were renewed as of October 2012.¹¹

Fourth, out of those who went through the cumbersome procedure to renew the scheme and reach maturity, as per the CAG, about 43% of beneficiaries were deprived of the benefits after maturity during 2009-2012. Out of 51,835 cases of maturity only 29,800 (57%) were finalised and the rest i.e. 43% of beneficiaries were deprived of the benefits even after maturity during 2009-2012 because of the failure of the Government of NCT of Delhi to finalise their maturity claims.¹²

The CAG's findings make it clear that intended enabling provisions of the *Ladli* Scheme have in fact ended up disabling the girl child.

Considering that the *Ladli* scheme does not cover about 90% of the population of Delhi and it has effectively failed, the retention of girl child and increase in the CSR equally depended on the robust implementation of the Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. There are regular reports of sex selection but cases registered are few and cases resulting into conviction are fewer.

The National Crime Records Bureau reported registration of 38 cases of foeticide in Delhi during 2005 to 2014.¹³ However, there was only one conviction under the PC&PNDT Act from 2009 to September 2014.¹⁴ On 4 March 2013, the Supreme Court in *Voluntary Health Association of Punjab vs. Union of India & Ors*,¹⁵ directed among others, to various courts

11. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P.132, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report__2013.pdf

12. Ibid.

13. Annual Reports "Crime In India" 2005-2014 of National Crime Records Bureau, Government of India

14. Effective Implementation of PNDT Act, Press Information Bureau, Government of India (Ministry of Health and Family Welfare), 3 March 2015, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>

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

in the country through the Registrars of various High Courts to “*take steps to dispose of all pending cases under the Act, within a period of six months*”. As per information placed before the Parliament by the Ministry of Health and Family Welfare, six more convictions took place in NCT of Delhi in 2015.¹⁶ On the other hand, in 2014 alone, the Health department cancelled registrations of 43 radiologists and clinics and sealed 11 ultra sonography machines for conducting sex determination of foetuses.¹⁷ The gap between actual number of offences committed under the PC&PNDT Act, the number of cases registered and number of convictions is one of the root causes for declining CSR in Delhi.

Further, the concerns about the abuse of the Medical Termination of Pregnancy (MTP) Act of 1971 for sex selective abortion are not misplaced. The All India Institute of Medical Sciences (AIIMS) after examining 238 aborted foetuses and newborns abandoned in different parts of affluent South Delhi and brought to the AIIMS between 1996 and 2012 found that females outnumbered males among fetuses that were less than or equal to 20 weeks of gestational age, clearly suggesting sex-selective abortions. The study opined that it was quite possible that some of these foetuses were aborted after tests revealed the foetuses to be female.¹⁸

The failure of the Delhi *Ladli* scheme and the lack of proper implementation of the PC&PNDT Act and the MTP Act have had cascading effect on the CSR in NCT of Delhi. On 10 October 2015, the Government of NCT of Delhi issued show cause notices to 89 hospitals and nursing homes whose SRB ranged from 285:1000 (Female: Male) to 788:1000 during 2014-2015 and were suspected

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16. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016
 17. Govt cracks down on sex-selective abortions, cancels 43 registrations, The Indian Express, 29 December 2014, <http://indianexpress.com/article/cities/delhi/govt-cracks-down-on-sex-selective-abortions-cancels-43-registrations/>
 18. AIIMS study hints rampant selective feticide in south Delhi, The Times of India, 2 August 2016, <http://timesofindia.indiatimes.com/city/delhi/AIIMS-study-hints-rampant-selective-feticide-in-south-Delhi/articleshow/53494552.cms>

of “carrying female foeticide”.¹⁹ The notices were ludicrous – considering the abnormal SRB, the government should have ordered appropriate inquiries under the PC&PNDT Act instead of seeking responses. No institution shall ever admit criminal offences – and not surprisingly, hospitals and nursing homes blamed god, luck, poverty etc for low sex ratio in their responses to the Government of NCT of Delhi.²⁰

The lack of commitment of the Government of NCT of Delhi to enforce the PC&PNDT Act stands exposed from the failure to update the status of cases registered under the PC&PNDT Act since 2015. In its RTI reply dated 13.12.2016, the Directorate of Family Welfare, Government of Delhi provided the list of the 77 cases registered by 2014²¹ apparently prepared for submission before the Supreme Court in *Voluntary Health Association of Punjab vs. Union of India & Ors.*²² Though in October 2015, the Government of the NCT of Delhi announced its plan to reward those providing information about those conducting illegal sex determination, no such scheme has been launched as on date.

Conclusion and recommendations

The situation of Delhi reflects India’s losing battle against female foeticide across the country. The Government of NCT of Delhi ought to learn from the available best practices on the issue and improve its action for retention of girl child.

Asian Centre for Human Rights recommends the following to the Government of National Capital Territory of Delhi:

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19. Delhi government acts against female foeticide, Business Standard, 15 October 2015, http://www.business-standard.com/article/news-ians/delhi-government-acts-against-female-foeticide-115101501293_1.html
 20. Low sex ratio? Hospitals in Delhi blame god, luck, poverty, weather, The Hindustan Times, 7 August 2016 available at <http://www.hindustantimes.com/low-sex-ratio-delhi-hospitals-blame-god-luck-poverty/story-bccnflrRUQw6ARVimmokN.html>
 21. RTI Reply to ACHR F.No.9/17PNDT/DPW/2016/8597 dated 13.12.2016
 22. (2013) 4SCC 1, Voluntary Health Association of Punjab vs. Union of India & Ors

Ladli Scheme

- Revise the Delhi *Ladli* Scheme to increase the amount for post birth benefits of at least Rs. 1 lakh,²³ provide educational scholarship of Rs. 50,000²⁴ and further additional financial assistance of Rs. 1 lakh to be paid to surviving girls for assistance during marriage²⁵;
- Expand the coverage of the Delhi *Ladli* Scheme to include all girl children of Delhi irrespective of income of their parents or place of birth and benefits be provided to all the girl children in the family;
- Issue necessary order to restore the benefits of the Delhi *Ladli* Scheme to all beneficiaries including the 52,700 cases identified by the Comptroller and Auditor General (CAG) during 2010-11 to 2011-12 which were dropped from the Delhi *Ladli* Scheme due to non-renewal of their cases at different stages;
- Amend the guidelines of the Delhi *Ladli* Scheme by removing the necessity to renew the application at different stages;
- Link the Delhi *Ladli* Scheme with all Anganwadi Centres and Schools including the private schools where about 25% of the seats are required to be reserved for the economically weaker sections;
- Undertake specific programme for increasing coverage of all families under the Delhi *Ladli* Scheme by connecting the programme with all hospitals/nursing homes/primary health centres;
- Digitise the funds sanctioned and utilization certificates and upload the same in the website of the Department of Women and Child Development; and
- Renegotiate the Memorandum of Understanding with the State Bank of India Life to fix the rate of interest from the inception of the Delhi *Ladli* Scheme;

23. As provided under the Ladli Laxmi Yojana of Madhya Pradesh.

24. As provided under Nanda Devi Kanya Yajona in Uttarakhand and Beti Hai Anmol Yajona in Himachal Pradesh.

25. As provided under the Ladli Laxmi Scheme in Goa

PC&PNDT Act

- Establish PC&PNDT Bureau of Investigation under the Department of Health and Family Welfare to assist the appropriate authorities for effective implementation of the PC&PNDT Act;
- Launch a *Mukhbir Yojana* to reward those providing information with amount of rewards of at least Rs 200,000 to decoys and *Mukhbirs* along with (i) specific incentive in the form of bond/scheme for the unborn baby of the decoy customer²⁶ apart from undertaking of not aborting the foetus under any circumstances; (ii) specific allowance to the decoys and *Mukhbirs* to attend each hearing during the trials; (iii) ensure anonymity of the complainants, informers etc to the extent possible;²⁷ and (iv) sanction adequate financial resources for implementation of the scheme;
- Introduce Integrated Monitoring system for the PC&PNDT Act and installing tracking devices in all sonography machines;
- Ensure proper implementation of the PC&PNDT Act inter alia through: (a) ensuring efficient and effective system of registration of all ultrasound/ genetic clinics so as to ensure compliance to the provisions of the Act; (b) ensuring regular and effective inspection of the ultrasound/ genetic clinics for curbing the violation of Act & Rule; and (c) ensuring proper enforcement mechanism and taking appropriate action for violations of the provisions of Act;²⁸
- Ensure time bound trial of the cases under the PC&PNDT Act; and
- Make necessary budgetary allocations for implementation of all these measures.

26. The revised *Mukhbir Yojana* of Rajasthan provides that “provisions should be made to give an insurance policy to the yet-to-born baby of the pregnant woman participating in a decoy operation”. For details, please see ‘New guidelines define role of pregnant woman in decoy operation’, The Times of India, 7 September 2015 available at <http://timesofindia.indiatimes.com/City/jaipur/New-guidelines-define-role-of-pregnant-woman-in-decoy-operation/articleshow/48851311.cms>

27. Under *Mukhbir Yojana* of Rajasthan, anonymity of an informer is ensured. Further, under the decoy scheme of Madhya Pradesh when the informer conducts the sting operation alone without assistance of decoy, the informer gets the entire Rs 50,000 at the stage of certifying the operation to be true by the AA and Rs 50,000 after framing of charges before the Court. Therefore, the anonymity of the informers can be ensured.

28. Report of the Comptroller and Auditor General of India, General and Social Sector Volume 2 for the year ended March 2013, Government of Odisha, Report No. 5 of the Year 2014, http://www.cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf

2. THE STATE OF THE MISSING GIRLS IN DELHI

Delhi has the 4th worst record of CSR in India as per 2011 census.²⁹ The CSR of Delhi has declined sharply by 47 points from 915 in 1991³⁰ to 868 in 2001 and showed marginal recovery by 3 points to 871 in 2011.³¹

2.1. The state of the missing girls

As per the 2011 census report, total child population in the age group of 0-6 years in Delhi was 10,75,440 males against 9,37,014 females.³² Based on the World Health Organisation's (WHO) estimate of natural sex ratio of 105 males for every 100 females³³, for 10,75,440 males, there would have been around 10,24,228 females in the age group of 0-6 years instead of 9,37,014 females. This means the total number of missing girls were 87,214 i.e. 10,24,228 females ideally to be born in the age group of 0-6 years minus 9,37,014 actually born in the age group of 0-6 years which is about 14,536 females 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 and another 58,144 in the age group of 7-10 years also went missing. This implies that a total of 1,45,358 girls altogether went missing during 2001 and 2011 from 0-10 years.

29. 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>

30. Ministry of Health and Family Welfare, Government of India, "Annual Report 2006: Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act", P.4, <http://pnrdt.gov.in/writereaddata/mainlinkfile/File99.pdf>

31. 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>

32. <http://www.census2011.co.in/census/state/delhi.html>

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

Table 1: CSR data for districts of Delhi, 1991³⁴ to 2011³⁵

State/District	Child Sex Ratio (0-6 years)		
	1991	2001	2011
1	2	3	4
NCT of Delhi		868	871
North	920	886	873
North West	913	857	865
North East	917	875	880
Central	937	903	905
East	918	865	871
New Delhi	919	898	894
South	912	888	885
South West	904	846	845
West	913	859	872

As per 2011 census, the worst district in terms of skewed CSR was South West district (845) followed by North West district (865), East district (871), West district (872), North district (873), North East district (880), South district (885), New Delhi district (894) while the Central district (905) was the only district which recorded CSR above 900. In 1991, all the nine districts of Delhi had CSR above 900.³⁶

The data available from the Civil Registration System indicates that the Sex Ratio at Birth (SRB) drastically came down from 867 females per 1000 males in 1991 to 809 females by 2001. However, during 2008 the position

34. Ministry of Health and Family Welfare, Government of India, "Annual Report 2006: Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act", P.63, <http://pndt.gov.in/writereaddata/mainlinkfile/File99.pdf>

35. <http://wcd.nic.in/Schemes/research/savegirlchild/1.pdf>

36. <http://wcd.nic.in/Schemes/research/savegirlchild/1.pdf>

got reversed as it recorded an unprecedented growth of 1004 females per 1000 males and the Government of NCT of Delhi claimed success “due to implementation of girl child related welfare scheme, particularly *Ladli* Scheme implemented with effect from 01/01/2008.”³⁷ But in the next year (2009) the SRB fell sharply by 89 points to 915 and further dropped to 901 in 2010, 893 in 2011 and to 886 in 2012. This itself proves the ineffectiveness of the *Ladli* Scheme. Since then however there is marginal improvement in the SRB which finally reached 898 in 2015.

Table 2: Sex Ratio at Birth of Delhi in 1991³⁸ and 2001 to 2015³⁹

Year	Sex Ratio at Birth (Civil Registration System data)	
	No. of Females per 1000 Males	No. of Males per 100 Females
1991	867	115
2001	809	124
2002	831	120
2003	823	121
2004	823	122
2005	822	122
2006	831	120
2007	848	118
2008	1004	100
2009	915	109

37. Government of NCT of Delhi, Directorate of Economics & Statistics, and Office of the Chief Registrar (Births and Deaths), “Annual Report on Registration of Births & Deaths in Delhi 2009”, available at <http://www.delhi.gov.in/wps/wcm/connect/f8bb110048ec306f9f519fb2120f29ae/B+%26+D+2009.pdf?MOD=AJPERES&lmod=927795206&CACHEID=f8bb110048ec306f9f519fb2120f29ae>

38. Ibid.

39. Ibid.

2010	901	111
2011	893	112
2012	886	113
2013	895	112
2014	896	111
2015	898	111

3. THE STATE OF THE IMPLEMENTATION OF THE PC&PNDT ACT

3.1. Provisions of the Act

India enacted the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act) to address sex selective abortion. The PNDT 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. The amended Act of 2002 was renamed as “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act).

The PC&PNDT Act, as amended in 2002⁴⁰, provides for regulation and punishment for sex determination and/or sex selection.

Section 3 of the PC&PNDT Act 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 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.

40. Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 <http://pnndt.gov.in/writereaddata/mainlinkFile/File50.pdf>

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.

Sections 7 to 16 deal with Constitution of Central Supervisory Board, Section 17 deals with the Appropriate Authority and Advisory Committee.

Sections 18 to 21 deal with registration of genetic counselling centres, genetic laboratories or genetic clinics etc.

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, there is 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 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 provides for offences by companies.

3.2. Status of implementation

a. Registration and inspection

The PC&PNDT Act and the PC&PNDT Rules provide for mandatory registration of genetic counselling centres, genetic laboratories or genetic clinics etc and their renewal.

With respect to implementation of the PC&PNDT Act, as per the Ministry of Health and Family Welfare of the Government of India, as of September 2014 the NCT of Delhi had 1,794 genetic counseling centre/genetic clinic/genetic laboratory etc registered under the Act.⁴¹ However, the Department of Health and Family Welfare of the Government of NCT of Delhi in its website stated that as on 5 November 2016 there were 1,553 registered centres functioning in Delhi including 97 in Central district, 137 in East district, 92 in New Delhi district, 105 in North district, 55 in North East district, 166 in North West, 141 in Shahdara district, 176 in South district, 194 in South East district, 99 in South West district and 291 in West district.⁴²

However, the number of centres inspected every year is much less than the number of registered centres which suggested that inspection of all the centres was not being carried out. Only 602 centres were inspected against total 1,605 registered centres during the FY 2011-12; 754 centres were inspected against 1,525 registered centres during FY 2012-13; 4,48 centres were inspected

41. 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>

42. "Registered Centers under PC & PNDT Act", Department of Health and Family Welfare, Govt of Delhi (accessed on 05-11-2016), available at <http://www.delhi.gov.in/wps/wcm/connect/6de60f004e79669982d3fb2eb287f0d8/Website+Updates-centers+data.pdf?MOD=AJPERES&lmod=-1884326963&CACHEID=6de60f004e79669982d3fb2eb287f0d8>

against 1588 registered centres in FY 2013-14, and only 640 centres were inspected against 1,554 registered centres during FY 2014-15.⁴³

Based on inspections, the registration of 143 centres was suspended and cancelled during FY 2011-12, 207 during FY 2012-13, 74 during FY 2013-14 and 101 during FY 2014-15.⁴⁴ A total of 84 ultrasound machines were seized/sealed in the last four years including 22 during 2011-12, 33 during 2012-13, 16 during 2013-14 and 13 during 2014-15.⁴⁵

Table 3: Status of action taken on diagnostic centres⁴⁶

Year	No of Inspections	Show Cause notices	Suspended	Cancelled	Machine sealed	Court cases filed
2011-2012	602	117	15	128	22	33
2012-2013	754	85	11	196	33	7
2013-2014	448	38	4	70	16	5

It shows that the number of inspections, show cause notices, suspensions/cancellations, sealing of machines and court cases filed have been going down.

b. Prosecution under the PC&PNDT Act

The National Crime Records Bureau (NCRB) of the Government of India in its annual reports stated that during 2005 to 2014, a total of 38 cases of foeticide were recorded in Delhi, including 3 cases in 2005, 7 cases in 2006, 4 cases in 2007, 2 cases in 2008, nil in 2009, 7 cases in 2010, 5 cases in 2011, 2 cases in 2012, 3 cases in 2013 and 5 cases in 2014.⁴⁷

43. Girls Count, "Civil Society Report Card on PC&PNDT Act", December 2015, P.35-36

44. Girls Count, "Civil Society Report Card on PC&PNDT Act", December 2015, P. 36

45. Ibid.

46. Department of Health and Family Welfare, Govt of NCT of Delhi, "Female Foeticide - A Status Report for Delhi, 2013-14"

47. Annual Reports "Crime In India" 2005-2014 of National Crime Records Bureau, Government of India

As per the Government of NCT of Delhi, a total of 77 cases were filed under the PC&PNDT Act as of 2014 before the courts as given below:

Table 4: Year-wise court cases filed

Year	No of cases filed
2001-2002	6
2002-2003	36
2003-2004	2
2004-2005	4
2005-2006	2
2006-2007	6
2007-2008	0
2008-2009	2
2009-2010	1
2010-2011	3
2011-2012	3
2012-2013	7
2013-2014	5
Total	77

In its RTI reply dated 13.12.2016, the Directorate of Family Welfare, Government of Delhi provided the same information of 77 cases.⁴⁸ It shows that the Government of Delhi had not updated the list of cases filed since 2014.

The Health Minister of India Mr J P Nadda informed the Rajya Sabha (Upper House) on 3 March 2015 that a total of 206 convictions have been secured under the PC&PNDT Act in India during 2009 to December 2014 out of which only one conviction was secured in Delhi (in 2013).⁴⁹ However, six

48. RTI Reply to ACHR F.No.9/17PNDT/DPW/2016/8597 dated 13.12.2016

49. Effective Implementation of PNDT Act, Press Information Bureau, Government of India (Ministry of Health and Family Welfare), 3 March 2015, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>

more convictions took place in Delhi during 2015 as per information placed before the Parliament by the Ministry of Health and Family Welfare.⁵⁰ It was possibly as a consequence of the Supreme Court directions in the *Voluntary Health Association of Punjab* on 4 March 2013 to complete the trial under the PC&PNDT Act in six months.⁵¹

Prosecutions under the PC&PNDT Act are indeed rare. In 2007, the BBC secretly filmed Dr Mangala Telang, the founder president of the Indian Fertility Society, who had publicly campaigned against the “evil crime” of female foeticide, allegedly agreeing to perform a scan for an undercover couple to determine the sex of their baby. She allegedly even offered to help arrange for an abortion if it turned out to be a girl after the ultrasound. After the BBC film was telecast, Dr Telang’s licence was reportedly suspended under the PC&PNDT Act. Health officials sealed and shut down her clinics - one in Delhi and another in Noida (Uttar Pradesh). A case under the PC&PNDT Act was also filed against her. But, according to a *Times of India* report dated 9 April 2011, Dr Telang “continues to have a flourishing practice; her clinics are back in business and she works for some of the most posh hospitals in the country’s capital”.⁵² Dr Telang was reportedly the same doctor who was allegedly caught red-handed in a sting operation conducted by the journalists of *The Telegraph* (India) in 1993 allegedly agreeing to do sperm sorting or sex pre-selection for “a mere Rs. 3,000” but no action was taken against her by the authorities.⁵³ In its RTI reply dated 13.12.2016, the Directorate of Family Welfare, Government of Delhi⁵⁴ informed that a case against Dr Telang was pending before the Districts Courts, Saket, New Delhi.

50. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

51. (2013) 4SCC 1, *Voluntary Health Association of Punjab vs. Union of India & Ors*

52. Female foeticide: Licensed to kill, *The Times of India*, The Crest Edition, 9 April 2011, <http://www.timescrest.com/society/female-foeticide-licensed-to-kill-5139>

53. Sex-test shock from the past, *The Telegraph*, India, 4 December 2007, http://www.telegraphindia.com/1071204/asp/frontpage/story_8626709.asp

54. RTI Reply to ACHR F.No.9/17PNDT/DPW/2016/8597 dated 13.12.2016

c. Emblematic cases of sex determination in 2015-2016

As stated above, a total of 77 cases were registered in Delhi before the courts by 2014.⁵⁵ There have been regular reports of violations of the PC&PNDT Act as reported in the media since then as highlighted below:

In July 2016, authorities arrested a gynecologist and a general physician, who were caught conducting sex determination on a decoy patient during a sting operation. In a joint sting operation conducted by Delhi and Haryana officials, a decoy patient from Faridabad, Haryana was sent to Walia Maternal and Health Center in Sarita Vihar, Delhi after it came to notice that a tout was taking patients for the purpose of sex determination to some clinic in Sarita Vihar. Authorities then set up a sting operation with a decoy customer, sending her to the tout. The tout took the decoy patient to the Walia Medical and Health Centre in Sarita Vihar. At the centre, ultrasound on the patient was performed by the gynecologist at the center, Dr Neelam Walia, where the patient was informed about the sex of the fetus. The authorities then reached the spot and caught the gynecologist along with her husband, Dr K S Walia, a general practitioner. The sleuths recovered Rs. 14,000 marked currency notes from them and sealed two ultrasound machines registered with the centre.⁵⁶

On 18 June 2016, Dr. V.K. Mutreja, a well-known radiologist who at the time of arrest was also an honorary secretary of the Delhi Medical Association, was arrested along with five others for allegedly conducting sex determination tests at his private clinic “Vishank Diagnostic Centre” in Dwarka’s Central Market. They were arrested following a raid by the joint team of Delhi and Haryana government. It was alleged that Dr. V.K. Mutreja had been conducting these illegal tests for years. Most of his clients were women from neighbouring Haryana. A statement issued by District Magistrate (South-West) Madhu Teotia stated, “A decoy pregnant lady brought by the Haryana team and another lady who came there on her volition underwent sex determination

55. Ibid.

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

test, violating pre-conception and pre-natal diagnostic test (PC&PNDT) law and leading to the arrests.” SDM (Dwarka) J.B. Kapil, who was part of the team, said the middleman whom the decoy lady contacted had fixed a deal for Rs. 24,000.⁵⁷

In May 2016, a sting operation was performed by a joint team from Haryana and New Delhi in which a radiologist identified as Dr M L Rattan was allegedly caught red handed telling a decoy patient about the sex of her foetus at Dr Rattan Ultrasound Centre at Janakpuri in West Delhi. According to Dr Shelley Kamra, State Nodal Officer, PC-PNDT in Delhi, “Dr ML Rattan performed an ultrasound on a pregnant woman without filling the form D and other records and also disclosed the sex of the foetus. The doctor has been caught red handed, and booked under the relevant provisions of the law.” Four ultrasound machines including three mobile ones were sealed at Dr Rattan Ultrasound Centre at Janakpuri and all the records including the anti-natal register were seized. The officials reportedly recovered Rs. 14,000 marked currency from the spot that was given for the purpose of sex determination. Out of these Rs. 3,000 was recovered from the doctor, while Rs. 11,000 was recovered from the tout identified as Bindubala. The SDM (Janakpuri) recorded the statement of the decoy, the tout as well as the accused doctor. The doctor allegedly admitted scanning the decoy in his statement to the SDM. The doctor as well as the tout Bindubala and her husband were arrested.⁵⁸

On 8 February 2016, a doctor was allegedly caught red-handed while conducting sex determination test in a sting operation conducted at the MGS Super Specialty Hospital at Punjabi Bagh, Delhi. Jhajjar district authorities of Haryana reportedly sent a decoy customer (a pregnant woman) after receiving information that a tout named Akash had been getting illegal sex determination tests done at Rs. 11,000. The Haryana team followed

57. Senior radiologist held for conducting sex test, *The Hindu*, 20 June 2016, <http://www.thehindu.com/news/cities/Delhi/senior-radiologist-held-for-conducting-sex-test/article8751085.ece>

58. New Delhi: Doctor caught in PC-PNDT sting, *Medical Dialogues*, 24 May 2016, <http://medicaldialogues.in/new-delhi-doctor-caught-in-pc-pndt-sting/>

Akash from Bahadurgarh from where he took the decoy customer (pregnant woman) in an auto rickshaw to Shivaji Park Metro Station in New Delhi. While the duo was waiting at the station, a car stopped in front of them and a woman made a mark on the decoy's wrist (it was like a code). When the decoy reached MGS hospital, a doctor immediately took her inside for ultrasound examination and the doctor congratulated her because the foetus was a boy. Dr RK Mathur, Medical Superintendent of MGS hospital stated that the hospital had terminated the accused doctor's services after the expose.⁵⁹

On 7th October 2015, four people identified as Dr Neeraj Yadav and three touts Sundar Singh, Durgesh and Neeraj Kumar were arrested in Delhi in an operation led by the Gurgaon district administration from Haryana for their involvement in sex determination of foetuses. The team comprising health department officials, Gurgaon crime branch and police officials raided a family health care clinic in Uttam Nagar area in Delhi late on the night of 5th October 2015 and arrested the accused red-handed. The sleuth had also seized a portable ultra sound machine from the clinic whose usage has been banned in India. The tout handed over the customer to a Delhi agent who took them to the family health care clinic of the accused doctor.⁶⁰

In May 2015, Delhi's Health Minister Satyendra Jain received a WhatsApp message tip-off informing about illegal sex determination tests being carried out in a private city hospital, Kukreja Hospital in Rajouri Garden. This message prompted the authorities into action. A team of the Health Department officials were dispatched to check the hospital right after the Health Minister received the message. A five-member team inspected the records of Kukreja Hospital in presence of the Sub-Divisional Magistrate (SDM) and found that records were not maintained properly. It was found during checking that mandatory sections of Forms F, which are required to be filled under the

59. Delhi doctor arrested for conducting sex determination test, FIR registered, India Today, 11 February 2016, <http://indiatoday.intoday.in/story/delhi-doctor-arrested-for-conduction-sex-determination-test-fir-registered/1/593011.html>

60. Doctor arrested for sex test on foetuses in Delhi, Mail Today, 7 October 2015 <http://indiatoday.intoday.in/story/doctor-arrested-for-sex-test-on-foetuses-in-delhi/1/492282.html>

PC&PNDT Act before conducting tests of pregnant women, were left blank. Even the names of doctors who referred patients for getting ultra sounds were found missing from the forms.⁶¹

d. How not to implement the PC&PNDT Act

On 15 October 2015, the Government of NCT of Delhi issued show cause notices to 89 hospitals and nursing homes which were suspected of “carrying female foeticide”. The sex ratio at birth in these hospitals/nursing homes ranged from 285:1000 (Female: Male) to 788:1000 in 2014-15 which is alarmingly low and unnatural sex ratio as given below:

Sex Ratio at Birth (No. of F per 1000 M)	200-300	301-400	401-500	501-600	601-700	701-800
Total number of hospitals/ Medical centers	1	2	7	13	27	39

The hospitals and nursing homes were directed to furnish following information within 10 days of issue of letter to individual centers/hospitals to explain the reason for adverse sex ratio at the hospitals

- Whether centers/hospitals are registered with nursing home cell, DHS?
- Whether centers/hospitals are providing MTP facility?
- Whether centers/hospitals are registered under MTP and PC&PNDT Act?
- In case centers/hospitals are not providing facilities under MTP & PNDT, centers/hospitals are directed to provide the details of the centers where patents are being referred for MTP and ultrasonography.⁶²

61. WhatsApp message to Delhi health minister helps bust illegal sex determination racket, *DNA*, 9 May 2015, <http://www.dnaindia.com/india/report-whatsapp-message-to-delhi-health-minister-helps-bust-illegal-sex-determination-racket-2084400>

62. DIRECTORATE OF INFORMATION AND PUBLICITY, GOVERNMENT OF NCT OF DELHI, SHOW CAUSE NOTICES BY GOVT OF NCT OF DELHI TO DELHI HOSPITALS WITH REGARD TO ADVERSE SEX RATIO AT BIRTH dated 15-10-2015 is available with ACHR.

The answers sought were ludicrous as the Department of Health and Family Welfare of NCT of Delhi should be fully aware whether these centers/hospitals are registered with nursing home cell, DHS and whether centers/hospitals are registered under MTP & PC&PNDT Act or not.

Not surprisingly, the hospitals while responding to the notices blamed god, luck, poverty etc for the low sex ratio. Among the three hospitals that blamed skewed sex ratio on the “almighty” were Rashi Medical Centre in West Delhi’s Dwarka with a sex ratio of 571, the Garg Medical Centre in Paschim Vihar with a sex ratio of 789 and UK Nursing Home in Vikas Puri, with a sex ratio of 714.⁶³

Five hospitals that attributed the low sex ratio to “natural processes” were Shri Ram Singh Hospital in East Krishna Nagar (sex ratio of 500), Jain Child and Maternity Home in Shalimar Bagh (514), Tyagi Hospital in Azadpur area (517), Saroj Hospital at Madhuban Chowk (767) and Gupta Medical Centre in Paschim Vihar (731).⁶⁴

There is no doubt that the SRB in these hospitals are glaringly abnormal. Instead of seeking responses to elementary questions which should be readily available with the Government of NCT of Delhi, there was a case for appropriate inquiries under the PC&PNDT Act and the MTP Act. No hospital/nursing home/clinic shall ever admit violations of the PC&PNDT Act – and not surprisingly, hospitals and nursing homes blamed god, luck, poverty etc for low sex ratio in their responses to the Government.⁶⁵

Nonetheless, the case of Tyagi Hospital in Azadpur area deserves mention. The registration certificate of Tyagi Hospital expired on 17.11.2012 and it had applied for renewal on 22.10.2012 and inspection by the State Inspection Monitoring Committee took place on 02.04.2013. The Sub-Divisional Magistrate in its order dated 19.8.2013 stated that the State Inspection Monitoring Committee found many discrepancies and the Advisory

63. Low sex ratio? Hospitals in Delhi blame god, luck, poverty, weather, The Hindustan Times, 7 August 2016 available at <http://www.hindustantimes.com/low-sex-ratio-delhi-hospitals-blame-god-luck-poverty/story-bccnflrRUQw6ARVimmokN.html>

64. Ibid.

65. Ibid.

Committee decided to seal the ultrasound machines.⁶⁶ However, the State Appropriate Authority in its order (Appeal No.3/2013) decided to set aside the order of the SDM as no reason was recorded in writing, no show cause notice was issued after inspection dated 02.04.2013 and therefore, reasonable opportunity of being heard was not provided and finally, in terms of the Section 20 of the PC&PNDT Act, the SDM was not authorised by the District Appropriate Authority.⁶⁷

That the Appropriate Authorities under the PC&PNDT Act do not follow the laid down procedures while cancelling or suspending registration or sealing of the ultra-sound machines is an issue of serious concern. The case of Tyagi Hospital is not the only case where authorities failed to follow due process.

This was the case even with respect to the Delhi IVF and Fertility Centre where the State Appropriate Authority vide its order dated 06.12.2013 set aside impugned order dated 30.05.2015 of the District Appropriate Authority which suspended the registration of the Delhi IVF and Fertility Centre and sealed five ultrasound machines only on the ground of not affording an opportunity of hearing.⁶⁸

In cases where evidence of not maintaining records are proven, the State Appropriate Authorities set aside the orders for sealing of ultrasound machines on the ground of being harsh. With respect to Jain Hospital, Vikas Marg Extension, inspection carried out on 21.3.2013, issued show cause notice highlight the following:⁶⁹

- Only Logiq 5 Pro USG Machine with Sr. No. 41844S12 was noted at the USG Chamber, the other two USG machines were missing.
- The other two USG Machines were lying at their residence at 4, Pushpanjali, Delhi - 92.

66. Order of the State Appropriate Authority in Appeal No.4/2013 dated 29.10.2013.

67. Ibid.

68. Appeal No. 3/2013 of the State Appropriate Authority available with ACHR.

69. Order of the State Appropriate Authority in Appeal No.2/2013 dated 26.08.2013

- Referral Slips & Radiology reports were in separate files and were not enclosed to the concern Form Fs
- The Master Register was not properly maintained.
- Following deficiencies were observed in Form Fs:-
 - Form Fs were not completely filled
 - Referral slips were not attached
 - Some of the forms did not have signature or thumb impression on patients' declaration.
 - DMC Registration of the performing Radiologist was not present on the forms.
 - Some of the forms had incomplete address of the patient.
 - The column of the number of previous children was not properly filled in many form Fs.

The most critical issue with respect to Jain Hospital was the incomplete Form F which is mandatory. On this issue, the State Appropriate Authority stated, *“On the incompleteness of F Forms we have examined randomly some of the F Forms where the occasional columns in a few forms were found unfilled, though, those column that specifically seek details about previous children and their gender, signature of ultrasonologist, name of referring doctor etc. were found to be by & large fully filled. However, the occasional form where this information was lacking was explained by the Appellant as due to the patient being ‘first time pregnant’ and hence no such details could be made available. She admitted that instead of leaving it blank she would be careful in future by writing ‘not applicable’ in such situation(s). Thus this deficiency observed by the Inspecting team of the District Appropriate Authority could be interpreted as a slight negligence and casualness but clearly it could not, possibly be, indicative of a deliberate Act at the level of the Appellant”*.⁷⁰ The State Appropriate Authority concluded that harsh punishment for “minor procedural lapses and deficiency” did not seem to be commensurate in the

70. Order of the State Appropriate Authority in Appeal No.2/2013 dated 26.08.2013

given whole circumstance of the case and set aside the order of the District Appropriate Authority.⁷¹

With respect to clinics sealed under the PC&PNDT Act in the NCT of Delhi, an application under the Right to Information Act, 2005 by one Dr. Mitu Khurana in 2008 brought to light that only those clinics caught violating the Act through the use of decoys and sting operations had court cases against them. In contrast, clinics sealed for incomplete filing of Form F and failure to maintain records properly were let off after submitting affidavits stating that these lapses would not be repeated in the future or that closure of the clinics is not in public interest as it denies medical treatment to society.⁷² There is little or no improvement of the situation.

e. No seriousness on the proposed *Mukhbir* scheme

In October 2016, the Government of the NCT of Delhi announced its plan to reward Rs. one lakh cash to those providing information about those conducting illegal sex determination. It also decided to launch a separate website and a toll-free helpline number to enable people to lodge complaints against hospitals and centres conducting illegal sex selection tests and sex selective abortions.⁷³ The Government of NCT of Delhi subsequently announced in October 2016 itself that the cash reward would be reduced to Rs. 50,000.⁷⁴ The Government of NCT of Delhi is yet to even finalise this scheme.⁷⁵

71. Ibid.

72. IMPLEMENTATION OF THE PC&PNDT ACT IN INDIA: Perspectives and Challenges, April 2010 , By Centre For Youth Development and Activities (CYDA), Prayatn, Vimochana- Forum for Women's Rights and Public Health Foundation of India; available at <http://www.wbhealth.gov.in/download/IMPLEMENTATION%20OF%20THE%20PC&PNDT%20ACT%20IN%20INDIA.pdf>

73. Delhi govt announces Rs 1 lakh reward for giving info about sex determination test, The Times of India, 5 October 2015 available at <http://timesofindia.indiatimes.com/city/delhi/Delhi-govt-announces-Rs-1-lakh-reward-for-giving-info-about-sex-determination-test/articleshow/49231503.cms>

74. New Delhi: Rs 50,000 reward for informers on sex determination, Medical Dialogues, 16 October 2016 available at <http://medicdialogues.in/rs-50000-scoop-for-the-one-who-helps-crack-down-female-sex-determination-conduct/>

75. Cash incentives for informers to stop foeticide in Delhi, The Hindustan Times, 14 October 2016 available at <http://www.hindustantimes.com/delhi/cash-incentives-for-informers-to-stop-foeticide-in-delhi/story-JTjtstEZvUONh8dPA11zuJ.html>

4. THE STATE OF IMPLEMENTATION OF THE MTP ACT

4.1 Provisions of the MTP Act

India also enacted the Medical Termination of Pregnancy (MTP) Act in 1971 to regulate and ensure access to safe abortions. The MTP Act of 1971 (amended in 2002) allows abortion up to 20 weeks of pregnancy in cases where “the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health”, or, “there is substantial risk that if the child were born, it would suffer from such physical or mental abnormalities to be seriously handicapped”.⁷⁶ When the pregnancy is caused by rape or as a result of failure of family planning device or method used by any of the married couples, pregnancy can be terminated.⁷⁷ Abortion is allowed only when it is conducted by registered medical practitioners at a hospital established or maintained by the Government or a facility certified by the Government or a District Level Committee constituted by the Government.⁷⁸ However, in special circumstances, pregnancy can be terminated any time (i.e. beyond 20 weeks’ gestation) and without approval of a second doctor when “the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.”⁷⁹ In this case, the registered medical practitioner need not have the requisite experience or training in gynecology and obstetrics as required under Section 2(d) to perform the abortion.⁸⁰ Specific punishments were prescribed for any illegal abortion under the MTP (Amendment) Act of 2002, which shall not be less than 2 years rigorous imprisonment but which may extend to 7 years under the IPC.⁸¹

76. Section 3, sub section (2) of the Medical Termination of Pregnancy Act of 1971

77. Section 3, sub section (2) of the Medical Termination of Pregnancy Act of 1971

78. Section 4 of the Medical Termination of Pregnancy Amendment Act of 2002

79. Section 5, sub section (1) of the Medical Termination of Pregnancy Act of 1971

80. See Explanation 2 under Section 5 of the Medical Termination of Pregnancy Amendment Act of 2002

81. Section 5, sub-sections (2)-(4) of the MTP Amendment Act of 2002

4.2 The scale of abortions under the MTP Act

While the government of India does not have any official data on illegal abortions, the Ministry of Health and Family Welfare has unambiguously acknowledged that *“Although abortions were made legal in 1971, actually illegal abortions still outnumber legal abortions by a large margin. It is estimated that 10-15 thousand women die every year due to complications resulting from unsafe abortions conducted at unapproved places by untrained providers.”*⁸² The official number on abortions varies. According to the Ministry of Health and Family Welfare’s report *“Health and Family Welfare Statistics in India 2013”*, a total of 6,49,795 medical termination of pregnancies (or abortions) were performed during 2008-2009; 6,75,810 during 2009-2010; 6,48,469 during 2010-2011; 6,25,448 during 2011-2012 and 6,36,010 during 2012-2013.⁸³ Further on 6 August 2013, then Union Minister of Health and Family Welfare Mr Ghulam Nabi Azad told the Rajya Sabha that a total of 11.06 lakh abortions were recorded in the year 2008-09 in India.⁸⁴

But unofficial estimates made by independent research study of 2004 *“Abortion Assessment Project - India (AAPI)”* coordinated by CEHAT, Mumbai and Healthwatch, Delhi estimated a staggering 6.4 million (64 lakhs) abortions taking place annually in India. Of these, 1.6 million (16 lakhs) abortions i.e. 25% were performed by informal (traditional and/or medically non-qualified) abortion providers.⁸⁵ The Population Research Institute, a non-profit research group, states that at least 12,771,043 sex selective abortions had taken place in India in the years between 2000 and 2014. The yearly average of sex selective abortion is 851,403 or daily average of 2,332.⁸⁶

82. <http://164.100.47.132/LssNew/psearch/Result13.aspx?dbst=4858>

83. Ministry of Health and Family Welfare, Government of India’s *“Health and Family Welfare Statistics in India 2013”*, Page 209, <https://nrhm-mis.nic.in/PubFWStatistics%202013/Complete%20Book.pdf>

84. Statement of then Minister of Health and Family Welfare Mr Ghulam Nabi Azad in response to Unstarred Question No. 257 in the Rajya Sabha on 6 August 2013,

85. See <http://www.cehat.org/go/uploads/AapIndia/summary.pdf>

86. Population Research Institute, *“Sex-Selective Abortion Around the World”*, <https://www.pop.org/content/sex-selective-abortion>

The underreporting under the MTP Act is glaring. It is assumed that States with more population will report more such cases. For example, Assam with a total population of 31,205,576 as per 2011 census reported a total of 3,53,309 cases of termination of pregnancies under the MTP Act during 2008-2009 to 2012-13. In comparison, Uttar Pradesh with a population of 199,812,341 as per 2011 census reported a total of 3,60,555 cases during the same period. In other words, Uttar Pradesh despite having 159 million populations more than Assam reported only 7,246 cases more than Assam. On the other hand, Maharashtra having a population of 112,374,333 as per 2011 census i.e. less than Uttar Pradesh reported 5,44,671 cases of termination of pregnancies under the MTP Act during the said period. Some other major States with population more than Assam as per 2011 census reported fewer cases than Assam. These States include Andhra Pradesh (32,842 cases) with over 84 million population; Bihar (67,895 cases) with population of over 100 million; Gujarat (1,04,901 cases) with population of over 60 million; Karnataka (1,30,410 cases) with population of over 61 million; Madhya Pradesh (1,32,118 cases) with population of over 72 million; Odisha (103,146 cases) with population of over 41 million; Rajasthan (158,470 cases) with population of over 68 million; Tamil Nadu (299,083 cases) with population of over 72 million; and West Bengal (269,091 cases) with population of over 91 million.⁸⁷

4.3 Implementation of the MTP Act in Delhi: AIIMS raises finger of suspicion on female foeticide

A total of 1,49,319 medical termination of pregnancies (MTPs) were performed in Delhi during 2008-09 to 2012-13. These included 45,285 terminations of pregnancies in 2008-09; 32,318 in 2009-10; 29,298 in 2010-11, 21,620 in 2011-12, and 20,798 in 2012-13.⁸⁸

87. Please refer to "The MTP Amendment Bill, 2014: India's Beti Mar Do Campaign" by Asian Centre for Human Rights, January 2016 available at <http://www.stopfemaleinfanticide.org/files/MTP-Amendment-Bill-2014.pdf>

88. Source: Ministry of Health and Family Welfare, "Health and Family Welfare Statistics in India 2013", P 209, <https://nrhm-mis.nic.in/PubFWStatistics%202013/Complete%20Book.pdf>

The allegations of loopholes in the MTP Act being misused for sex selective abortion are not misplaced.⁸⁹

The All India Institute of Medical Sciences (AIIMS), the premier medical institute of India, had examined 238 aborted fetuses and newborns abandoned in different parts of affluent South Delhi and brought to the AIIMS between 1996 and 2012 and found that females outnumbered males among fetuses that were less than or equal to 20 weeks of gestational age, clearly suggesting sex-selective abortion. Under the MTP Act, abortion is legally allowed only up to 20 weeks of gestational age and Dr Sudhir Gupta, professor and head of forensic medicine at AIIMS, stated that it was quite possible that some of these fetuses were aborted after tests revealed it to be female.⁹⁰

On 23 May 2015, a couple was found to have illegally aborted a 13-week female foetus in an unregistered hospital in North West district and buried it on the outskirts of Delhi because “the couple wanted a male child as they have an 11-month-old girl”. The husband told the police that he met a tout at the hospital who took them to a diagnostic centre where the sex determination test was done and an abortion carried out by a midwife. This revealed that parents who wanted sons were still surreptitiously having sex determination tests done and aborting female foetuses at unregistered hospitals in the Capital, often with the help of touts and midwives.⁹¹

89. Govt cracks down on sex-selective abortions, cancels 43 registrations, *The Indian Express*, 29 December 2014, <http://indianexpress.com/article/cities/delhi/govt-cracks-down-on-sex-selective-abortions-cancels-43-registrations/>

90. AIIMS study hints rampant selective feticide in south Delhi, *The Times of India*, 2 August 2016, <http://timesofindia.indiatimes.com/city/delhi/AIIMS-study-hints-rampant-selective-feticide-in-south-Delhi/articleshow/53494552.cms>

91. Female foeticide in north-west Delhi sparks a renewed crackdown, *The Hindustan Times*, 30 June 2015, <http://www.hindustantimes.com/delhi/female-foeticide-in-north-west-delhi-sparks-a-renewed-crackdown/story-2uFLRBsQSCin9bHvqs6znN.html>

5. THE STATUS OF THE SCHEMES FOR RETENTION OF THE GIRL CHILD

5.1. Description of the Delhi Ladli Scheme

i. Objectives of the *Delhi Ladli Scheme*

The Delhi *Ladli* Scheme was launched in the National Capital Territory of Delhi on 01.01.2008 with the following aims and objectives⁹²:

- Empower the girl child socially and economically.
- Promote birth registration of girl child.
- Control female foeticide and to improve sex ratio.
- End discrimination against the girl child.
- Promote education among the girls and reduce school drop-out rate of girl students.
- Provide security to girl students for their higher education.

ii. Targeted beneficiaries

The targeted beneficiaries are girls born on or after 1st January 2008 as well as school going girls whose parents' annual income is less than Rupees One Lakh. Only two girls per family are eligible for benefits under the scheme.

iii. Benefits under the scheme

Under Delhi *Ladli* Scheme, every eligible girl child was initially entitled to Rs. 6,000 in case of institutional delivery and Rs. 5,000 in case of non-institutional delivery.⁹³ On 26 February 2008, the amount was increased to Rs. 11,000 for institutional delivery and Rs. 10,000 in case of non-institutional delivery.⁹⁴

92. Notification of Delhi Ladli Scheme, available at the website of Department of Women and Child Development, Government of NCT of Delhi, http://wccdel.in/streesakti_3Ladli.html

93. <http://wccdel.in/Notification.html>

94. Govt doubles Ladli scheme amount, The Times of India, 26 February 2008, <http://timesofindia.indiatimes.com/city/delhi/Govt-doubles-Ladli-scheme-amount/articleshow/2814278.cms>

To this amount Rs. 5,000 will be added at the time of admission to classes I, VI, IX, X and XII.

The money will be kept as a long term fixed deposit in the name of the child who can encash it when she turns 18 and on passing Class X.

iv. Eligibility conditions⁹⁵

The girls born on or after 1st January 2008 shall be eligible for benefits under the scheme immediately after their birth. Other girls who were born before this date can also avail this scheme w. e. f. the academic year 2008-09 at the time of taking admission in Class I, VI, IX, XII and at the time of passing Class X from government recognized schools.

The eligibility criteria prescribed for the scheme are as follows⁹⁶:

- The applicant must be a bonafide resident of the National Capital Territory of Delhi for at least three years preceding the date of birth.
- The girl child must have been born in Delhi as shown by the birth certificate issued by Registrar (Births & Deaths).
- The annual income of the parents of the girl child should not exceed Rs. 100,000.
- The financial assistance is restricted to two girls in a family.
- Applications must be submitted within one year from the date of birth and within 90 days from the time of getting admission in different classes

v. Modalities of disbursement of benefits

The prescribed application forms can be obtained from the District Officer Concerned (Department of Social Welfare/ WCD, Govt. of Delhi)/ State Bank of India/ Govt. Recognized Schools and submitted to the concerned

95. Department of Women and Child Development, Government of NCT of Delhi, available at <http://wcdtel.in/eligibility.html>

96. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P.229, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

District Officer, in case of school going girl within 90 days of admission of the girl and in case of newly born girls within a year of the birth.⁹⁷

The amount is sanctioned in the name of the girl child and is deposited with SBI Life Insurance Co. Ltd. (SBIL) which manages the amount till the girl attains the age of 18 years and passes Class-X as a regular student or takes admission in Class-XII. On attaining this milestone the girl child can claim the maturity amount, which can be utilized for her higher education or vocational training or for setting up a micro enterprise.⁹⁸

The payments in the name of eligible girls are sanctioned at the following milestone stages:

SL No	Stage of Financial Assistance	Amount (in Rs.)
1	For Institutional Delivery	11000/- (provided the girl is born in the last one year)
2	For Delivery at Home	10000/- (provided the girl is born in the last one year)
3	On admission in Class I	5000/-
4	On admission in Class VI	5000/-
5	On admission in Class IX	5000/-
6	On admission in Class X	5000/-
7	On admission in Class XII	5000/-

Maturity amount at the end of lock-in-period will vary depending on the stage at which each girl child enters the scheme and registers under it.

5.2. Assessment of effectiveness of Delhi Ladli Scheme

i. Stringent eligibility criteria and cumbersome procedure for renewal

The scheme guidelines have put stringent eligibility criteria like (1) the applicant must be a bonafide resident of the National Capital Territory of

97. Department of Women and Child Development, Government of NCT of Delhi, available at <http://wcddel.in/eligibility.html>

98. http://delhi.gov.in/wps/wcm/connect/doi_t_wcd/wcd/Home/Delhi+Ladli+Scheme/

Delhi for at least three years preceding the date of birth, (2) the girl child must have been born in Delhi as shown by the birth certificate issued by Registrar (Births & Deaths), (3) the annual income of the parents of the girl child should not exceed Rs. 100,000 and (4) the financial assistance is restricted to two girls in a family.

Due to such stringent eligibility criteria, majority girls could not get benefits under the scheme. An evaluation in 2009 of the Delhi *Ladli* Scheme by a consultant engaged by the Department of Women and Child Development found the following⁹⁹:

- (1) There were ample evidences that more vulnerable population finds it difficult to access the scheme;
- (2) Most of the recipients of the scheme belong to the Above Poverty Line (APL) families;¹⁰⁰
- (3) Girls living in *Jhuggis*, slums, were at high risk of missing the *Ladli* enrollment and were four times less likely to get benefits, as compared to those living in better localities; and
- (4) Families who live in rented houses are almost twice unlikely to get their girls enrolled under the scheme.

The scheme guidelines provide that the parents or guardian of the applicant has to renew the scheme at several stages. Under Rule 4 of the Delhi *Ladli* Scheme Rules, 2008, grant of Rs. 5000 shall be released each time the girl child reaches the milestones i.e. admission in Class I, VI, IX and XII and at the time of passing Class X from government recognized schools. But Rule 4(2) states that “(2) *The onus for getting the subsequent periodical fixed deposits will be on the parents/ guardians of the child and shall be made only when the*

99. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P. 229, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

100. If the scheme is for the BPL families, how the APL families are included raises questions. In this regard, the CAG had stated that “*the scheme was launched without having data of intended beneficiaries to be covered under the scheme and without fixing any annual target, financial or physical*”.

*parents/guardians produce the report card and attendance/ admission certificate from a Govt./MCD/NDMC or Govt. recognized school.*¹⁰¹ This means that each time the girl child takes admission in different classes i.e. Class I, VI, IX & XII, the parents or guardians of the girl child will have to renew their cases under the scheme failing which the girl child will not get further benefit of the scheme.

Further, under Rule 6(2), “2. *The parents of the girl child shall submit the application within one year from the date of birth of the child or 90 days from the date of admission, as applicable.*”¹⁰²

The poorest of the poor are often illiterate and they do not understand the cumbersome process of renewal. Since the Delhi *Ladli* Scheme Rules, 2008 puts the onus for getting the scheme renewed at different stages on the parents/ guardians of the child, it was found by the CAG and the Consultant of the Department of Women and Child Development (2009) that 42% of the beneficiary girls did not get benefits of the scheme due to non-renewal of their cases during 2010-11 to 2011-12.

ii. Rejection without grounds

Since the inception of the Delhi *Ladli* Scheme in 2008 up to 2012, a total of 4,81,823 girls were enrolled. This included 1,29,495 during 2008-09; 1,40,006 during 2009-10; 1,05,737 during 2010-11; and 1,06,585 during 2011-12.¹⁰³ Many applications were rejected without giving any reasons.¹⁰⁴

For the first three years the process was opaque to the extent that it was almost impossible for the applicants to know whether their application had been

101. Department of Women and Child Development, Government of NCT of Delhi, available at <http://wccdel.in/Notification.html>

102. Ibid

103. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P. 129, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

104. “Special Financial Incentive Schemes for the Girl Child in India: A Review of Select Schemes, 2010 by T.V. Sekher, International Institute for Population Sciences, Mumbai for the Planning Commission Government of India; Available at: http://www.unfpa.org/sites/default/files/resource-pdf/UNFPA_Publication-39772.pdf

accepted or not or if rejected, the grounds of rejection. One Ms Samina used the Right to Information Act, 2005 to find out the status of her application made for her daughter (Class IX student) under the *Ladli* Scheme. She was informed that her application was rejected. The First Appellate Authority, however, found that Samina's daughter fulfilled the criteria for getting benefit under the scheme and directed that her application should be sanctioned. When the matter reached the Chief Information Commissioner (CIC) in April 2011, Shailesh Gandhi, then CIC, directed the Government of NCT of Delhi to ensure that information of all applicants was put up on the website giving their date, name and address. The CIC also directed the Government of Delhi that the status of all applications submitted after 1 January 2008 should be clearly displayed on the website and updated every 15 days.¹⁰⁵

Pursuant to the order of the CIC, the Government of NCT of Delhi started putting details of applications received for *Ladli* Scheme and the applicants can now view the status of their applications and other details of the *Ladli* Scheme on the website of the Department of Women and Child Development Ministry, Delhi (<http://wcd Delhi.in/ladli.html>).

However, the grounds for rejection are still not provided.

iii. 42% girls dropped from Ladli scheme due to non renewal during 2010-2012

As per the Guidelines of the *Ladli* Scheme, any girl who is a beneficiary under the Scheme is required to renew their applications when she takes admission into class I, VI, IX, X and XII. In case of non-renewal at any of the stages, the girl child would be out of the scheme without any monetary benefit.

The Comptroller and Auditor General (CAG) of India found that in two years during 2010-11 to 2011-12, out of 1,25,808 cases due for renewal, only 73,108 cases i.e. 58.11% were renewed and the rest i.e. 52,700 were not

105. Will your 'Ladli' get Rs 1 lakh from govt?, The Indian Express, 13 April 2011, <http://archive.indianexpress.com/news/will-your-ladli-get-rs-1-lakh-from-govt-/775741/>

renewed as of October 2012 (See Table 5). This means that about 42% of the beneficiaries were dropped from the *Ladli* Scheme due to non-renewal of their cases at different stages.

Table 5: Number of cases of renewal and non renewal of beneficiaries¹⁰⁶

Sl No.	Year	Cases due for renewal	Cases renewed	Shortfall	Percentage
1	2010-11	45,307	20,140	25,167	55.55
2	2011-12	80,501	52,968	27,533	34.20
Total		1,25,808	73,108	52,700	41.89

The CAG's finding that 42% beneficiaries dropped out of the Delhi *Ladli* scheme during 2010-11 to 2011-12 is also in sync with the findings of the Government of NCT of Delhi's evaluator of the scheme in 2009 who found that "42 per cent of girls did not get benefits of the scheme due to non-renewal of their cases during 2010-11 to 2011-12".¹⁰⁷

A survey of the beneficiaries was conducted by the CAG during August to October 2012 by randomly selecting 20 out of 398 girls-only schools and 10 out of 184 co-educational schools for the period of 2008-09 to 2011-12 to assess the effectiveness of the implementation of the scheme. The survey found that the number of beneficiaries declined from 27.17% in 2009-10 to 20.92% in 2010-11 and further to 18.30% in 2011-12. It was further revealed that only 41.92% of cases were renewed during 2010-11 and 2011-12. Therefore, 58.08% girls in 30 schools randomly selected during the Audit were found to have dropped out of the scheme due to non-renewal of their cases.

The year-wise total number of girl students, beneficiaries under the scheme and their renewal at prescribed stages are given below:

106. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P.132, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

107. Ibid

Table 6: Survey in 30 schools randomly selected by CAG

Year	Total No. of girls students	Beneficiaries under the scheme	Percentage of beneficiaries	Renewal cases due	Cases actually renewed	Percentage of renewal cases
2008-09	14,798	3,765	25.44	-	-	-
2009-10	17,062	4,635	27.17	-	-	-
2010-11	19,535	4,087	20.92	3,674	1,322	35.98
2011-12	20,796	3,806	18.30	5,721	2,616	45.73
Total	72,191	16,293	22.57	9,395	3,938	41.92

iv. 43% of beneficiaries were deprived of the benefits during 2009-12

The CAG found that the Department of Women and Child Development, Government of NCT of Delhi took undue time to disburse the maturity claim to the beneficiaries. Audit analysis revealed that 51,835 cases matured during 2009-12 but only 29,800 (57%) were finalized, as given below:¹⁰⁸

Table 7: Maturity cases finalized during 2009-10 to 2011-12

Sl. No.	Year	Cases due for maturity	Cases finalized and sent to SBIL	Shortfall	Percentage of cases finalized
1	2009-10	6,908	1,065	5,843	15.42
2	2010-11	18,535	16,378	2,157	88.36
3	2011-12	26,392	12,357	14,035	46.82
	Total	51,835	29,800	22,035	57.47

The Department of Women and Child Development of the Government of NCT of Delhi finalised only 15 to 88 per cent of cases, which matured during

108. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P. 132, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

2009-10 to 2011-12. The CAG report stated, “In all, 43 per cent of cases were not finalized during the last three years. This was mainly due to the Department’s failure in reconciling the data with SBIL and tracing the remaining beneficiaries. As a result, the maturity amount in respect of untraced beneficiaries was lying unclaimed with SBIL. The Department was not even aware of the quantum of amount lying with SBIL. Thus, 43 per cent of the beneficiaries who were registered under the scheme since April 2008 were deprived of the benefits”.¹⁰⁹

v. Non-utilization of funds to the tune of Rs. 2090.52 Lakhs

As per response received under the Right to Information Act, 2005 on 29 May 2015 the Government of NCT of Delhi made total budgetary allocation of Rs. 57,028 lakhs during 2008-2009 to 2014-2015 but spent only Rs. 54,937.48 lakhs, thereby there was non-utilization of funds to the tune of Rs. 2090.52 lakhs.¹¹⁰

The details are given as under¹¹¹

Table 8: Non-utilisation of funds

Year	Budget Provision (Rs. in Lakhs)	Actual expenditure (Rs. in Lakhs)
2008-09	8,638	8,644.40
2009-10	8,700	8,697.29
2010-11	11,000	8,926.10
2011-12	9,300	9,290.36
2012-13	9,550	9,550
2013-14	1,040	1,038.89
2014-15	8,800	8,798.44
Total	57,028	54,937.48

109. Ibid

110. RTI reply received from Assistant Director (LADLI) vide F.No.8(495)/DWCD/LADLI/RTI/2015-16/9041 dated 29 May 2015

111. Ibid

vi. Socially weaker sections found it difficult to access the scheme

The primary targets of the Delhi *Ladli* Scheme are the socially and economically backwards sections of society. Only girl children whose parents' annual income is less than rupees one lakh are eligible under the scheme. But as a result of stringent eligibility conditions and cumbersome process of renewal which socially weaker sections and illiterate people did not understand, the scheme was inaccessible to vast majority of the targeted population. The Department of Women and Child Development, Government of NCT of Delhi spent Rs. 27.02 crore on advertisements and publicity of the scheme during the period 2008-09 to 2011-12 but it did not have any impact on the enrolment.

The CAG stated that during 2009-10, the expenditure on advertisement decreased by 37.33 per cent, whereas the number of beneficiaries increased by 8.12 per cent. On the other hand, during 2010-11, the expenditure on advertisement increased by 147.50 per cent whereas the number of beneficiaries decreased by 24.48 per cent. During 2011-12, expenditure on advertisement further increased by 150 per cent but beneficiaries increased by only 0.80 per cent. This indicated that the expenditure on advertisement neither had any correlation with the number of beneficiaries, nor had resulted in expected increase in the number of beneficiaries. This was further corroborated by the outcome of a survey conducted by the audit in 30 schools, where only 13 out of 518 girl students (2.51 per cent) stated that they came to know about the scheme through advertisements.

As stated earlier, an evaluation in 2009 of the Delhi *Ladli* Scheme by a consultant engaged by the Department of Women and Child Development found that "more vulnerable population finds it difficult to access the scheme, girls living in Jhuggis were at high risk of missing the *Ladli* enrollment and were four times less likely to get benefits, as compared to those living in better localities and the families who live in rented houses are almost twice unlikely to get their girls enrolled under the scheme.¹¹² Yet no action was

112. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P. 229, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

taken up when the CAG conducted the audit for the financial year that ended on 31.03.2012.

Further, it has been found that most public and private schools are not facilitating parents or girls who might be eligible to apply in this scheme. The government reserves certain proportion of seats for students belonging to economically weaker sections in public/private schools and under the Right to Education Act 2009. About 25% of the seats are required to be reserved in schools for such children. If these children and their parents remain oblivious about the procedure and terms of the *Ladli* scheme, the intended beneficiaries will not be covered even if they are eligible for it. Therefore, the purpose and objective of the *Ladli* scheme will be defeated in that case.¹¹³

vii. Lack of planning and guidelines

The CAG has found that *“The scheme was launched by the Department without having data of intended beneficiaries to be covered under the scheme and without fixing any annual target, financial or physical. Even the roles of stake holders viz. Department of Education, Department of Social Welfare and Department of Health were not spelt out clearly in the scheme notification or guidelines. Audit observed that the details of the modalities for the implementation of the scheme have not been spelt out.”*

Further, the Department of WCD did not formulate any guideline for hospitals and schools to register the girl child under the scheme on birth and renewal at subsequent stages while she is admitted for studying.

viii. Financial returns not accrued as envisaged in the scheme

In January 2008, the State Bank of India Life (SBIL) offered a fund management solution in which the tentative maturity amount, against the deposit of Rs. 30,000, would work out to Rs. 84,552 at the interest rate

113. DELHI LAADLI SCHEME: AN APPRAISAL 2010 by Pranav Sukhija for Centre for Civil Society; Available at: http://ccs.in/internship_papers/2010/pranav-sukhija_laadli-scheme-an-appraisal.pdf

of 10.5 per cent and redeemed to the girl child after she attained the age of 18 years.¹¹⁴ Later on 26 February 2008, the post birth amount (Rs. 11000 for institutional delivery and Rs. 10,000 for non-institutional delivery) was doubled and the state government stated that the final assured amount would be Rupees One lakh.¹¹⁵

But as per the CAG report, the SBIL provided only 6.5 to 7 per cent interest rate for the years 2008-09 and 2009-10 respectively instead of promised 10.5 per cent interest rate. The CAG also found that the rate of interest was not mentioned in MoU signed between the Government of NCT of Delhi and the SBIL. As a result, there was low return on investments with the SBIL.¹¹⁶

The CAG further stated that the Government contributes Rs. 11,000 or Rs. 10,000 at initial stage and Rs. 5,000 at subsequent milestones, whereas SBIL credits the amount in account of beneficiaries after deducting a premium for insured amount @ Rs. 0.65 to Rs. 2.10 for different age groups and the service charges applicable from time to time. However, there is no benefit to the girl child against the deduction of premium from the contribution as the assured amount would go to the Government in the event of death of beneficiary. Payment of compensation to the girl child for any disability due to accident or otherwise has not been taken into account while selecting the SBIL for making investments.¹¹⁷

114. Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31 March 2012, Government of NCT of Delhi, Report No. 2 of the Year 2013, P. 130, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Delhi_Revenu_Social_nonPSUs_report_2_2013.pdf

115. Govt doubles Ladli scheme amount, The Times of India, 26 February 2008, <http://timesofindia.indiatimes.com/city/delhi/Govt-doubles-Ladli-scheme-amount/articleshow/2814278.cms>

116. Report No. 2 of the Year 2013 of the Comptroller and Auditor General of India on Social Sector (Non-PSU)

117. Ibid

ANNEXURE I: DELHI LADLI SCHEME RULES, 2008

7/28/2016

Dept. of Women & Child Development



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Department of Women and Child Development Govt. of NCT of Delhi

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Right to Information

No. F 8(1)/FAS/GCPR/DSW/06-07/-

In supersession of Girl Child Protection Scheme, 2006 published in the gazette notification no. FB (1)/FAS/GCPR/DSW/06-07/22033-043 dated 07.08.06, the Lt. Governor of Government of the National Capital Territory of Delhi is pleased to make the following rules for protection of Girl Child.

1. Short Title and Commencement:

- These rules may be called 'Delhi Ladli Scheme Rules, 2008'.
- These rules shall come into force from January 1, 2008
- Other deposits vis-à-vis education of the girl children will be implemented from the academic session 2008-09.

2. Aims and Objectives:

- To enhance the social status of a girl child in the society as well as in the family;
- To ensure proper education and to make the girl child self-reliant;
- To ensure economic security for the child;
- To protect the child from discrimination and deprivation.

3. Competent Authority:

- The District Social Welfare Officer of the concerned District shall be the Competent Authority for verification of the content of the application and initial sanction. The Competent Authority may satisfy himself about the contents of the application by conducting spot verification or otherwise through the departmental investigator or other official or ASHA (Accredited Social Health Activist) employed by the Health Department or Anganwadi worker specially deputed for the said purpose.
- For the subsequent sanctions when the child is admitted in Class I, VI, IX, XII and also passes Class X, the District Social Welfare Officer shall be the competent and sanctioning authority, after the names of eligible children is provided by the Department of Education by means of a certified list by Head of School.

4. Characteristics of Financial Assistance:

The competent Authority may, subject to the provisions of these rules, release grant, in the form of a long-term Fixed Deposit,

- Payment of Rs. 6000/- if the girl child is born in a Hospital/ Nursing Home in the NCT of Delhi.
- Payment of Rs. 5000/- if the girl child is born outside the above mentioned Hospitals/ Nursing Homes/institutions.
- Payment of Rs. 5000/- on admission of the child in Class I.
- Payment of Rs. 5000/- on admission of the child in Class VI.
- Payment of Rs. 5000/- on admission of the child in Class IX.
- Payment of Rs. 5000/- on the child's passing the Class X.
- Payment of Rs. 5000/- on admission of the child in Class XII.

- The long term fixed deposit receipts granted under the above mentioned rules shall be made in the name of the girl child, encashable only after the said girl child has attained the age of eighteen years, has passed Class X as a regular student or has taken admission in Class XII.
- The onus for getting the subsequent periodical fixed deposits will be on the parents/ guardians of the child and shall be made only when the parents/guardians produce the report card and attendance/ admission certificate from a Govt./MCD/NDMC or Govt. recognized school.
- The financial assistance shall be restricted up to two girl children in a family.
- In case of the death of girl child before attaining the age of eighteen years, the long term fixed deposit receipt shall be forfeited and deposited back in the treasury of the Government.
- No loan or other credit facility can be extended on the long term fixed deposit receipt.
- The long term fixed deposit receipt shall be non-transferable/ non-refundable and ineligible for premature encashment.

5. Eligibility conditions for financial assistance:

A) For girl children born on or after 01.01.08

- The applicant must be a bonafide resident of the National Capital Territory of Delhi for at least three years preceding the date of application;
- The girl child must have been born in Delhi as shown by the birth certificate issued by Registrar (Births & Deaths).
- The annual income of the parents of the child should not exceed Rs. 1,00,000/-;

B) For all other girl children in Delhi

- Who are currently studying in a Govt./MCD/NDMC or Govt. recognized school in Delhi,
- Who were born in Delhi as shown by the birth certificate issued by Registrar (Births & Deaths),

Dept. of Women & Child Development:

- Who have been admitted in Classes I, VI, IX, or XII or passed Class X in the academic year 2008-09 onwards,
- Whose parents have been residing in Delhi for at least 3 years prior to the date of application,
- Whose parents' income is less than Rs. 1,00,000/- per annum,
- All such girl children shall receive payments of Rs. 5,000/- in the form of long-term fixed deposits.
- The above-mentioned deposits shall be encashable only after the child attains 18 years and has at least passed Class X.

6. Application for financial assistance:

1. An application for the financial assistance under these rules shall be submitted to the Competent Authority, which may be obtained from the office of the Competent Authority or from the office of the Deputy Director (FAS), Department of Social Welfare, G.L.N.S. Complex, Delhi Gate, New Delhi or electronically downloaded from official website.
2. The parents of the girl child shall submit the application within one year from the date of birth of the child or 90 days from the date of admission, as applicable. However, District Social Welfare Officer shall be the competent authority to relax the above time limit depending on the merits of the individual cases.
3. The following documents shall be attached with the application: -
 - a. A copy of ration card or voter identity card or any other document as a proof of residence, which clearly shows at least 3 years of residence in Delhi;
 - b. The birth certificate of the girl child issued by the Registrar (Births and Deaths) of National Capital Territory of Delhi;
 - c. A joint photograph of the parents and the girl child should be pasted on the application form;
 - d. A self-declaration by the parents regarding their annual income.
 - e. Admission certificate from Govt./MCD/NDMC or Govt. recognized school.

7. Procedure for release of financial assistance:-

1. The Deptt. of Education will provide a district-wise list of all the girls who are admitted in Class I, VI, IX & XII or passed Class X in schools run by Deptt. of Education/MCD/NDMC schools and recognized schools in Delhi to the Deptt. of Social Welfare or Deptt. Of Women and Child Development.
2. The Competent Authority shall forward a copy of the sanction order issued by it under these rules, along with a copy of the application to the bank authorized for this purpose for issuing a long term fixed deposit receipt of rupees six/ five thousand or subsequent payments, as the case may be, in the name of the girl child.
3. The long term fixed deposit receipt shall be given to the applicant and a scanned copy of the long term fixed deposit receipt shall be maintained in an electronic depository by the Competent Authority or any agency designated by the Government for this purpose.
4. The authorized bank shall provide a copy of the long-term fixed deposit receipt to the Competent Authority.
5. On the maturity of the long term fixed deposit receipt, that is, on attaining the age of eighteen years and having attended the school up to Class XII as a regular student and passed Class X, the accumulated amount will be paid to the girl child through an account payee cheque in her name.
6. The Competent Authority shall reconcile the expenditure with the concerned authorized banks after every six months.

8. Tenure and renewal of long term fixed deposit receipt:

1. The long term fixed deposit receipts shall be renewable at every subsequent stage of deposit.
2. At the time of renewal, a certificate of the beneficiary girl being alive and studying in a regular school as above shall be obtained from the school authorities of the girl child duly attested by the Principal/Head of the school.
3. The onus of producing such certificate will be on the parents/ guardian of the child.
4. The Competent Authority will issue sanction order on the renewal slip and submit the list of beneficiaries to authorized bank along with the cheque.

9. Change of Address:

The applicant shall intimate any change of address along with proof to the Competent Authority within one month of such change.

10. Other Stipulations:-

If a girl child born on or after 01.01.08 applies to the Deptt. at a later stage, within the prescribed time and she fulfills the eligibility criteria, she shall be entitled only to release of those payments which are due to her from the stage she joins the scheme.

11. Appellate Authority:-

In case of grievances, the applicant may appeal to the Director, Department of Social Welfare for redressal of his/ her grievance in this regard and the decision of the Director shall be final.

This issues in pursuance of Cabinet Decision No.1292 circulated vide letter No.F.3/3/2004-GAD/CN-4166-4177 dated 1.11.2007 of the Secretary to the Cabinet.

Dept. of Women & Child Development:

By order and in the name of the
Lt. Governor of the National
Capital Territory of Delhi

(Jayshree Raghuraman)
Secretary (Social Welfare)

Dated:

No. F8 (1)/FAS/GCPR/DSW/06-07/

Copy forwarded for information to:-

1. Secretary to the Lt. Governor of Govt. of NCT of Delhi
2. Secretary to the Chief Minister, Govt. of NCT of Delhi
3. Secretary to the Speaker of Delhi Legislative Assembly, Delhi
4. Secretary to the Dy. Speaker of Delhi Legislative Assembly, Delhi
5. Secretary to the Minister- Food & Supply, Govt. of NCT of Delhi
6. Secretary to the Minister- Finance, Govt. of NCT of Delhi
7. Secretary to the Minister- Industries, Govt. of NCT of Delhi
8. Secretary to the Minister- Education, Govt. of NCT of Delhi
9. Secretary to the Minister- Health & family Welfare, Govt. of NCT of Delhi
10. Secretary to the Minister- Social Welfare, Govt. of NCT of Delhi
11. Private Secretary to the Chief Secretary, Govt. of NCT of Delhi
12. All Secretaries- Education, Finance, Health, Urban Development

(Jayshree Raghuraman)
Secretary (Social Welfare)

ANNEXURE II: FAQs ABOUT DELHI LADLI SCHEME



Let your baby girl blossom

LADLI

Help her learn, grow & shine



LADLI SCHEME : DELHI GOVT. ANSWERS YOUR QUESTIONS (Frequently Asked Questions & Their Answers)

- 1. Question :** Will the girls born after 1st January 2008, alone avail benefit under this scheme?
Answer : Not only the girls born after 1st January, 2008 but girls born before this date can also avail this scheme at the time of taking admission in the classes mentioned below and after passing out class X.

 - Girl should have been born on or after 1st January, 2008. At the time of birth Rs. 10,000/- (Rs.11,000/- if born in a hospital or a maternity home)
 - Rs.5000/- every time on taking admission in class I,VI, IX, XII. and at the time of passing class X
 - Can apply separately at the time of getting admission in any of the above classes.
- 2. Question :** Whether a girl studying in the same school, can apply in this scheme on promotion to classes mentioned above?
Answer : Yes. If a girl gets promoted or admitted in any of the above mentioned classes, she can apply for the other benefit under.
- 3. Question :** Can girls studying in a private / public school, apply for this scheme?
Answer : Yes. But the school should be recognised and annual income of their parents should be less than Rupees One Lakh.
- 4. Question :** Will all the girls get a maturity amount of Rs. 1,00,000/-?
Answer : Only those girls, whose application has been made on the basis of birth after 1st January 2008 and renewed every time while taking admission in class I,VI,IX,XII and at the time of passing class X, shall get an amount of Rs. One Lakh approximately. All other girls shall get the amount with interest of the sum deposited in their account by the Delhi Government.
- 5. Question :** Can girls born outside Delhi but residing in Delhi for more than 3 years be benefitted by this scheme?
Answer : No. Only girls born in Delhi can avail benefit of this scheme, provided that they have a birth certificate issued by the Registrar (Birth & Death) of Delhi.
- 6. Question :** Can girls born in Delhi but studying in NCR (Noida, Faridabad, Gurgaon etc.) also be benefitted by this scheme?
Answer : No. Only girls studying in a Delhi Government School/ recognised school/ MCD school/ NDMC school/ Cantonment Board schools can avail benefit under this scheme.
- 7. Question :** Does Ladli Scheme Form costs anything?
Answer : No. Forms are being distributed free of cost. These are available in the schools, specified branches of State Bank of India and also in the District office of Women & Child Development Department/ Social Welfare Department.
- 8. Question :** If the form is not available in the school, who should be contacted?
Answer : Please contact officer of the District Women & Child Development Department and Social Welfare Department.
- 9. Question :** If the certificate from the Registrar (Births & Deaths) is not issued in time, what should be done?
Answer : One year time is provided at the time of birth and 90 days are given at the time of getting admission in different classes for applying under this scheme. Even then, if the certificate is not received then on the basis of the application deposit receipt for issue of birth certificate, this time limit can be extended further by District Women & Child Welfare Department/ Social Welfare Officer.
- 10. Question :** If the certificate from the Registrar is not issued in the case of home delivery, what should be done?
Answer : Birth certificate can be obtained by contacting officer of the Local Body or Zonal D.C. of MCD.
- 11. Question :** What should be done, if filled up form is not accepted by the school/ Women & Child Development, officer?
Answer : School Principals, District Officers of Women & Child Development Department/ Social Welfare Department have been strictly directed to issue, get filled up and receive these forms.
- 12. Question :** If a girl is not able to pass class X due to any circumstances, will she still get the amount?
Answer : No. Passing class X is necessary.
- 13. Question :** If there are more than two girls in a family, how many of them will be benefitted by this scheme?
Answer : Any two eligible girls of a family can be benefitted by this scheme.
- 14. Question :** If the girl child dies, can other girl get the amount transferred in her name?
Answer : No.
- 15. Question :** Can any other person take this amount?
Answer : No, this amount will be deposited in the girl's bank account only after she attains the age of 18 years. No other person can take this amount.
- 16. Question :** Many Principals refuse to give and verify Ladli Scheme forms. What should be done in such cases?
Answer : Principals have been directed to distribute, verify/ attest, accept and issue acknowledgement slips and send the forms to the District offices of Women & Child Development / Social Welfare Department.
- 17. Question :** Will the form be accepted if some columns of the form are not filled?
Answer : All the important information in the form i.e. name, address, annual income, number of daughters, birth certificate, photo, school and class must be given. Columns which are not applicable can be left unfilled.
- 18. Question :** If a girl who has attained the age of 18 years, takes admission in class XII and applies under this scheme, in such a case when the amount in her account can be withdrawn?
Answer : Being an adult, she will decide this herself. But the period of the fixed deposit will not be less than one year.

Jaysree Raghuraman IAS
Secretary, Department of Women
and Child Development

S.K. Saxena
Director, Department of Women
and Child Development



DEPARTMENT OF WOMEN & CHILD DEVELOPMENT
GOVT. OF NCT OF DELHI
1 Canning Lane, Kasturba Gandhi Marg, New Delhi - 110001
www.wcdel.in



ANNEXURE III: LADLI SCHEME APPLICATION FORM

लाडली योजना के अंतर्गत पंजीकरण हेतु जन्म एवं स्कूल संबंधित फार्म
फार्म जिला महिला एवं बाल विकास अधिकारी / विभागीय वेबसाइट / एस०बो०आई० बैंक / स्कूल से निःशुल्क प्राप्त करें।
BIRTH CASE/SCHOOL CASE OF GOVT. RECOGNISED SCHOOLS BY DELHI GOVT.

पहचान संख्या /आई.डी.नम्बर
(कार्यालय द्वारा भरा जायेगा)

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महिला एवं बाल विकास विभाग

राष्ट्रीय राजधानी क्षेत्र, दिल्ली सरकार

1-A, पं० रवि शंकर शुक्ला लेन, के.जी. मार्ग, नई दिल्ली-110001

जिस परिवार की सभी स्त्रियों से वार्षिक आय एक लाख से कम है केवल वो ही बालिका लाडली योजना के लिए आवेदन करें।
क्या इस बालिका का पंजीकरण लाडली योजना में किया जा चुका है यदि हां तो एस.बी.आई.एल. के पत्र की कॉपी संलग्न करें एवं संबंधित स्कूल को
अवश्य सूचित करें। नवीनीकरण के लिए इस फार्म के पीछे दिए गए दिशा-निर्देश देखें।

कन्या भूषण हत्या पाप एवं कानूनी अपराध है।

1. (i) बालिका का नाम (हिन्दी में) _____

(ii) बालिका का नाम (अंग्रेजी में) _____

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(नाम एवं उपनाम के बीच एक डिब्बा खाली रखें)
कृपया नाम आधार कार्ड / जन्म प्रमाण पत्र के अनुरूप लिखें।

माता पिता व बालिका का संयुक्त फोटो

(iii) जन्म तिथि _____

2. जन्म का स्थान _____

(अस्पताल/ नर्सिंग होम/ घर)

3. दिल्ली में जन्म के प्रमाण पत्र की पंजीकरण संख्या _____ जारी होने की तिथि _____ जारीकर्ता एजेन्सी _____
(रजिस्ट्रार जन्म एवं मृत्यु द्वारा जारी प्रमाण-पत्र की प्रतिलिपि संलग्न करें)

4. बालिका की माता का नाम _____ बालिका के पिता का नाम _____

5. श्रेणी :- SC ST OBC GEN (यदि लागू हो, जाति प्रमाण पत्र संलग्न करें)

6. वर्तमान पता (दिल्ली में रहने का तीन साल का प्रमाण संलग्न करें)

_____ पिनकोड _____

(राशन कार्ड/ वोटर पहचान पत्र / जन्म प्रमाण पत्र की छाया प्रति संलग्न करें)

(दूरभाष नं० या मो० नं० देना अनिवार्य है)

दूरभाष नं० _____

मो नं० _____

विधान सभा क्षेत्र संख्या _____

7. पारिवारिक वार्षिक आय (अंको में) _____ (शब्दों में) _____
(आय प्रमाण पत्र संलग्न करें)।

8. प्रार्थी की पुत्रियों की संख्या _____ इस पुत्री के अलावा कितनी पुत्रियों के लिए लाडली योजना में पंजीकरण करवा चुके हैं _____
यदि हां तो ग्रुप मेम्बर आई.डी. लिखें _____ (यह सहायता दो पुत्रियों तक सीमित है)

9. आधार कार्ड संख्या..... (माता / पिता के आधार कार्ड की छाया प्रति संलग्न करें)

10. क्या किसी अन्य राज्य की इस प्रकार की योजना से लाभ ले रहे हैं? हां/ नहीं

यदि हां तो योजना का नाम _____ पंजीकरण संख्या _____ राज्य _____

(कार्यालय द्वारा भरा जायेगा)

BIRTH CASE/SCHOOL CASE OF GOVT. RECOGNISED SCHOOLS BY DELHI GOVT.

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बालिका का नाम _____

जन्म तिथि _____

बालिका की माता का नाम _____

बालिका के पिता का नाम _____

वर्तमान पता _____

हस्ताक्षर प्राप्तकर्ता _____

नाम एवं पद _____

जिले का नाम एवं पता _____

अनुलग्नक: 1. आधार कार्ड

2. वर्तमान पते का प्रमाण - पत्र

3. आय प्रमाण-पत्र.

कृपया इस रसीद को संभाल कर रखें।

कृपया पीछे दिये गये दिशा निर्देश पढ़ें।

स्कूल द्वारा भरा जाए

अगर बालिका स्कूल में पढ़ती है तो नीचे दिए गए रिक्त स्थान अवश्य भरें ।

बालिका की फोटो	कक्षा	सेक्शन	विद्यालय का नाम एवं पता	सरकारी / प्राइवेट	विद्यालय कोड आई.डी.	विद्यार्थी कोड संख्या	आधार नं० बालिका का	कक्षा अध्यापिका के हस्ताक्षर

प्रधानाचार्य के हस्ताक्षर एवं मोहर

घोषणा पत्र

मैं..... पुत्र/पुत्री/पत्नी श्री घोषणा करता / करती हूँ कि मेरे द्वारा दिया गया विवरण मेरी जानकारी में पूर्णतया सही है। यदि इसमें कोई भी सूचना गलत पाई जाती है तो मेरे विरुद्ध अपराधिक मामला दर्ज किया जा सकता है एवं लाभ की राशि ब्याज समेत वापस ली जा सकती है।

.....
बालिका के पिता के हस्ताक्षर / बायें अंगूठे का निशान

.....
बालिका के माता के हस्ताक्षर/बायें अंगूठे का निशान

(कार्यालय प्रयोग के लिए)

जांचकर्ता के लिए

नाम पदनाम हस्ताक्षर

स्वीकृत करने वाले अधिकारी के लिए

नाम पदनाम हस्ताक्षर

आवेदन पत्र के साथ निम्नलिखित दस्तावेजों की फोटो कॉपी संलग्न करें :-

1. आवेदन से पूर्व दिल्ली में रहने का तीन वर्ष का प्रमाण - राशन कार्ड / वोटर पहचान पत्र / विजली / पानी / टेलिफोन का बिल।
2. बालिका का दिल्ली का जन्म प्रमाण पत्र (रजिस्ट्रार जन्म एवं मृत्यु द्वारा जारी)।
3. प्रार्थना-पत्र पर माता-पिता व बालिका का संयुक्त फोटो।
4. माता-पिता का आय प्रमाण पत्र / स्वयं द्वारा सत्यापित आय घोषणा पत्र (मूल प्रति)।
5. माता-पिता व बालिका के आधार कार्ड एवं उसके आवेदन की छया प्रति संलग्न करें।

आवेदक के लिए दिशा निर्देश

1. प्रार्थना पत्र बालिका की जन्म तिथि से एक वर्ष के अंदर अपने जिला कार्यालय में जमा कराएं।
2. प्रार्थना पत्र विद्यालय में दाखिला लेने के बाद उसी वर्ष 31 अक्टूबर तक जमा करना होगा अन्यथा उस पर विचार नहीं होगा।
3. नवीनीकरण (Renewal) जिस जिला कार्यालय में बालिका का लाइली योजना में पंजीकरण हुआ था, नवीनीकरण भी उसी जिला कार्यालय में होगा। बालिका के कक्षा 1, 6, 9, 11 व 12 में दाखिला लेने पर होगा अतः माता-पिता इन कक्षाओं में बालिका का प्रवेश होते ही अप्रैल से सितम्बर माह में आवश्यक दस्तावेज विद्यालय में जमा करायें व नवीनीकरण करायें।
4. स्कूल के माध्यम से आने वाले पंजीकरण / नवीनीकरण उसी जिला कार्यालय में जमा होंगे जिस जिले के अंतर्गत स्कूल आता है।
5. डाक द्वारा भेजे गए प्रार्थना पत्र किसी भी अवस्था में स्वीकार नहीं किये जायेंगे।
6. परिपक्वता राशि (Maturity Claim) तभी प्राप्त होगी जब बालिका 18 वर्ष की होने पर ही कम से कम 10वीं कक्षा नियमित विद्यार्थी के रूप में पास करेगी। अथवा राशि 12वीं कक्षा पास करने के बाद ही प्राप्त की जा सकेगी।

ANNEXURE IV: PENDING COURT CASES UNDER THE PC&PNDT ACT

RTI ACT
Most Urgent
By Speed Post

DIRECTORATE OF FAMILY WELFARE
Govt. of NCT of Delhi
B & C-Wing, 7th Level, Vikas Bhawan-II
Near Metcalf House,
Civil Lines, Delhi-110054

F.3/RTI/DFW/2016/ID No. 1100/8609

Dated: 13/12/16

To,
✓ Sh. Suhas Chakma,
S/o Sh. Ranjan Bikash Chakma,
C-3/441, 2nd Floor,
Janakpuri,
New Delhi-110058.

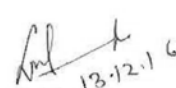
Subject: Supply of Information for RTI application No. 1100/DFW under RTI Act, 2005.

This RTI was received in this office on 05.12.2016

Please find enclosed the reply pertaining to Directorate of Family Welfare.

In case you are not satisfied with the order of the PIO you can file appeal within 30 days of issue of the order to the 1st Appellate Authority at the following address:-

Director Family Welfare
First Appellate Authority
B&C-Wing, 7th Level,
Vikas Bhawan-II, Civil Lines,
Delhi-110054



(DR.L.M. Singh)
Public Information Officer(DFW)

F.3/RTI/DFW/2016/ID No. 1100/

Dated:

Copy to:

1. The PIO, Dte. General of Health Services, Govt. of NCT of Delhi, F-17, Karkardooma, Delhi.
(for information).


(DR.L.M. Singh)
Public Information Officer(DFW)

DIRECTORATE OF FAMILY WELFARE, GOVT. OF NCT OF DELHI

B&C Wing, Level - 7, Vikas Bhawan - II
Near Metcalf House, Civil Lines, Delhi - 110054
Ph: 23813477, Email Id: cmopndt@gmail.com

F.No. 9/17/PNDT/DFW/2016 8597

Dated: 13/12/16

To,
The APIO,
Directorate of Family Welfare,
7th Level, B Wing,
Vikas Bhawan II, Civil Lines,
New Delhi - 54

Sub: Supply of information for Application ID no. 2000/DFW

Sir,

This has reference to your letter no. F No. 3/RTI/DFW/2016/ID No. 2000/8449 dated 6.12.16 as per available information in the PNDT Division of DFW is as follows:-

1. Information regarding copies of the proceedings of 4 cases of suspension of registration of centres & Action Taken Report vide "Female Feticide - A Status report for Delhi 2013-14" is a district subject and is available district wise with the respective District Appropriate Authorities/ DCs concerned in the above on 4 cases.
2. Copies of all the proceedings of 70 cases of cancellation of registration of centres and Action Taken Report thereto, is District wise, and the information is available with the respective DAA/ DCs under whose jurisdiction the 70 cancellation cases falls.
3. Information regarding proceedings of 16 cases of sealing of machines & Action Taken Reports thereto, is available district wise with the District Appropriate Authority / Deputy Commissioners' concerned only.
4. List of cases of 51 titles pending disposal in Lower courts in 2013-14 is attached as Annexure A
5. List of cases of 7 titles pending disposal in High Court of Delhi in 2013-14 is attached as Annexure B.


13/12/16
(Dr. Satyajit Kumar)
SPO, PC & PNDT Act

Encl: A/a

Directorate of Family Welfare,
Govt. of NCT Delhi, 7th Level, B & C Wing,
Vikas Bhawan II, Near Metcalf House
Civil Lines, New Delhi-110054.

DELHI PNDDT COURT CASES

Ending March
2014

SUMMARY / COMMENTS

At Present 51 active cases in Lower courts

In High Court- 7 active cases

Cases in High Court

Case filed by Rishni Devi Chartable Hospital, Nihal Vihar, Nangloi (under MTP Act) (West District)
Dr. Sunil Fakay Vs. Appropriate Authority (North West) & Ors.
Shakuntala Nursing Home (Dr. J. Raj Dhami) Vs. State and ors. (South west) WP 4689/2012
Janhit Nursing Home (Dr. Rajesh Birman) Vs. State and Ors. (South West) WP (C) 4714/2012
Dr. Manisha kumar Vs. Govt. of NCT of Delhi and Ors. (East) WP (C) 2196/2013
Dr. D. K. Baluja (Jaipur Golden Hospital, 2, Institutional Area, Sector-3, Rohini Delhi-85)/ Mitu Khurana V/s A.A. complaint case no. 1406/09
Praveen chopra Vs. State and Anr. Editor in chief

No	Case Title	Name of the Court
WEST DISTRICT		
1.	State v/s Chopra Nursing Home, Uttam Nagar, Govt. Counsel- Jagmohan Sharma (CC No. 46/1/03)	Shifted from Court No.107,MM, Rohini Courts,Delhi to Tis Hazari Court
2.	State v/s Deep Medical Centre, Uttam Nagar, Govt. Counsel- Jagmohan Sharma (CC NO. 47/9/03)	Room no. 150, Tis Hazari court (MM-M s Aditi Garg)
3.	State v/s M.R. Hospital Ortho. Centre, Najafgarh (CC No. 1394/1)	Sh.S.K.Sirohi, MM,R.No.312, Dwarka Court
4.	State v/s R. Nayyar Hospital, Najafgarh, Govt. Counsel - Naseer Ahmed (CC No. 43/1/03)	Court no. 150, Tis Hazari Court (MM - Ms Aditi Garg)
5	State v/s Sharma X-Ray Clinic, Nangloi	Not Known
6	State v/s Shivam Medical Centre, Nangloi, Govt. Counsel- Naseer Ahmed (CC No. 2/60/03)	
7	State v/s Sigma Diagnostic Scan Centre, Nangloi, Govt. Counsel- Naseer Ahmed (CC No. 2/59/03)	Shifted from Rohini Court ot Tis Hazari Court
8	State v/s Surya X-Ray, Nangloi, Govt. Counsel- Naseer Ahmed (CC No. 2/61/03)	Ms. Ravinder Bedi, Addl. Chief MM -03, West Distt, Room no. 136, (Crl), 3, 1st floor, Tis Hazari
9	State v/s Amar Leela, Hospital Pvt. Ltd, Janakpuri	Ms. Ravinder Bedi, Addl. Chief MM -03, West Distt, Room no. 136, (Crl), 3, 1st floor, Tis Hazari
10	State v/s Kadami Clinical Lab, Janakpuri	Sh. M.C. Gupta, Court No.206, Rohini Courts
11	State v/s Satya Bhama Hospital, Nangloi, Govt. Counsel- Naseer Ahmed	Ms. Ravinder Bedi, Addl. Chief MM -03, West Distt, Room no. 136, (Crl), 3, 1st floor, Tis Hazari
12	State v/s Dr. M.K. Jain Cure Clinic, Najafgarh UTTAM NAGAR (CC No 334/1/07)	Sh.S.K. Sirohi, MM, Court no. 312, DWARKA COURT
13	District Appropriate Authority v/s Dr. Pankaj Arora ultrasound	Sh. Samar Vishal, MM, Room No. 143, Tis Hazari court
14	District Appropriate Authority v/s Shanti Hospital 8/10 Tilak Nagar, New Delhi	Sh. Samar Vishal, MM, Room No. 143, Tis Hazari court
15	District Appropriate Authority V/s Paramjeet Medical centre (CC No. 67/3/12)	Sh. Samar Vishal, MM, Room no.143, Tis Hazari court
NORTH DISTRICT		
16	State v/s Amrit Clinic, GTK Rd., Delhi-33, FIR NO.-675/07	MM, Room no. 105, Rohin Court, MM, SH. Neeraj Gaur
17	District Appropriate Autoirty (Shurbir singh) Vs. Dr. Mudita Jain, Naman Clinic, Sec- A5, Pocket No. 12, Plt no. 79, DDA, Narela	Sh. Deepak Wasan, MM Rohini court, Room no. 116

18	District Appropriate Authority (Shurbir singh) Vs. Khajan singh Chauhan Hospital, Palla Road, Near MCD Store, Bakhtawar pur	Sh. Chanderrjit Singh, M.M., Rohini Court, Room no. 112
SHAHDARA DISTRICT		
19	State v/s Mrs. Pushpa Gupta.U-38, Aggarwal Business Centre, Main Road, Laxmi Nagar, Delhi	Sh Manoj kumar MM, Room No.30. Karkardooma Courts, DelhiName of
EAST DISTRICT		
20	Dr. Abhilasha Garg Vs. Appropriate Authority DC (East) & Ors.,Case filing date:16.03.2010 (Case CC No. 46)	In the court of Chief Metropolitan Magistrate, Ms. Kiran Bansal Court no. 29, Karkardooma, court shifted from court no.23 of Sh. Vishal Gogne, recently
21	Raja Nursing Home Vs. Appropriate Authority DC (East) & Ors. Case filing date 16.03.10 (Case CC No. 47)	In the court of Chief Metropolitan Magistrate, Ms. Kiran Bansal Court no. 29, Karkardooma, court shifted from court no.23 of Sh. Vishal Gogne, recently
SOUTH East DISTRICT		
22	State v/s Life Positive Magazine Dr. Sanjay Gupta, Dr. Asha Dhurve, Rao Hari Singh Clinical Lab. Govt. Counsel- J.S. Gochwal (CC No. 152/1)	In the court of MM Sh Amit Arora Tis Hazari Courts, Delhi
23a	State v/s Kohli Diagnostic Centre, Mt. Kailash, N.Delhi (STING OPERATION), Counsel-Sh. Sanjay Dewan, 401 Civil Wing, Tis Hazara, 9811036782 (CC No. 254/01/11)	Sh. Ajay Goel MM, Patiala House Courts, N.Delhi,
b	State Vs Pawandee Singh Kohli	Transferred to hon'ble court of Ms Mona Tardi Kerketta, MM, Saket district court
24	State v/s Lokpriya N/Home & Mat. Centre, N.Delhi-25, Counsel-Sh. Sanjay Dewan, 401 Civil Sing, Tis Hazari, 9811036782 (CC No. 02/03/2006)	Court of Mr Navin Arora MM saket district Court,
25	State v/s Dr. K. P. Singh, Health & Wealth U/s Clinic shop no. 3, gali no.1, main rai'a marg, sangam vihar, new delhi (CC No. 3/3)	Court of Mr Navin Arora MM saket district Court,
SOUTH DISTRICT		
26	CDMO Vs Dr. Mangla Telang, Fertility Research and IVF centre, 12, Sri Fort Road, New Delhi. Sh. Vikas Goswami (APP) Saket court	In the Honble court of Gaurav Rao, MM, Patiala house,

SOUTH WEST DISTT.		
27	Appropriate Authority V/S shakuntla Nursing Home Sagar pur, Case no. 65/1/12/SP c.c no. 191/1	Patiala House Court No. 29 MM- Ms. Manisha Khurana
28	Appropriate Authority V/S Mohanty Medical Centre, Palam Village C.C. NO. 84/12	ASJ court of Vijay Kumar Dahiya, Dwarka court Room no. 613
29	State v/s Jyoti Memorial Jain Hospital, Najafgarh C.C. No. 925/1/08	Sh.V.K. Yadav, MM, Patiala House / Court No.25, Transfer in Dwarka Court no.312
30	State v/s Naren Hospital Najafgarh, Govt. Counsel- Jagmohan Sharma C.C. No. 123/4/02	Transferred in Tis Hazari court R.NO 150
31	District App. Authority Vs. Ms. Sudha Sharma C.C. No. - 132/09	MM Court Dwarka, court Room no. 312
32	District App. Authority Vs. Janhit Imaging & Diagnostic Centre, Najafgarh C.C. No. -925/1/08	MM court Dwarka, Court Room no.10

NORTH EAST DISTT.

No ongoing court case

New Delhi District		
33	State v/s Reliance Infocom, Govt. Counsel- J.S. Gochwal 9891582932, 9899353887 (CR. CASE NO.19/05)	CMM, Ms Seema Mani /Mr Sanjeev Jain, R.No.38, Tis Hazari, CR. CASE NO.19/05
34	Appropriate authority V/S Gurunank Charitable Hospital Inderpuri	Patiala House Court No. 07, Ms. Vijeta Singh
35	District App. Authority Vs. K. L. Chest Diagnostic clinic Munirka (CC No. 138/2)	Patiala house Court no. 04, MM-Sh. Akash Jain.
36	District App. Authority Vs. Rural Health Centre, mahipalpur	Saket court No. 213, Shri Ajay Garg,
37	Appropriate Authority V/S Dr. Anoop Gupta	Patiala House Cour No. 11, MM Sh. Ashok Kumar

CENTRAL DISTRICT

38	State v/s Creative Publications, Govt. Counsel - J.S. Gochwal	CMM, Court No.38, Tis Hazari
39	Roop Nagar Hospital, Delhi-7, Filed on 7-7-2005	Tis Hazari Court And High Court
40	State v/s Sart Hospital, Burari	Tis Hazari Courts
41	State v/s Nanak Hospital, Burari	Tis Hazari Courts

North West Distt.

42	State v/s Mithala Polyclinic & Heart Care, Kirari chowk Govt. Counsel - Virinder Kalra, FIR NO.- 1550/4, Complaint case no.-96/1	Sh. Sumedh Kumar Sethi, MM, Rohini Room no. 211, Rohini court
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43	State v/s Sethi Medical Centre, Kirari Chowk, Nangloi, Govt. Counsel Virender Kalra, FIR NO. - 1549/4, Complaint case no. - 97/1	MM, Rohini Court, R NO. 4, Rohini Court, Room no. 211
44	Dr. D.K. Baluja (Jaipur Golden Hospital), 2 Institutional Area, Sector -3, Rohini, Delhi-85, Complaint case no. - 1406/09	Sh. Vishal Singh, MM Rohini Court, Room No. 6, Rohini Court
	Dr. D.K. Baluja (Jaipur Golden Hospital), 2 Institutional Area, Sector -3, Rohini, Delhi-85, Complaint case no. - 1406/09	
45	District Appropriate Authority vs. Dr. Sunil Fakay (FIR No. 228/10)	Metropolitan Magistrate, Rohini Court
46	State v/s Krishna Diagnostic Centre, Nangloi, Govt. Counsel- Virender Kalra (FIR No. 1548/04)	MM, Rohini Court, R. NO. 4, Rohini Court, Room no. 211
47	State v/s Manju Goyal, Shalimar Bagh	C.M.M., Tis Hazari, Delhi
48	State v/s Hi-tech Diagnostic Physiotherapy, Pitam Pura	Dr. K.K. Goel, CMM, Tis Hazari
49	DAA V/S Prashanti Nursing Home, H-32/4, Sec-3, Rohini Delhi	
50	DAA V/S Srivastva Nursing Home, D-14/151-152, Sector - 8, Rohini Delhi	
51	DAA V/S ... Nursing Home, ... Sector -3, Rohini	

ANNEXURE V: ORDERS OF THE DELHI APPROPRIATE AUTHORITIES IN EMBLEMATIC CASES

RTI ACT
Most Urgent
By Speed Post

DIRECTORATE OF FAMILY WELFARE
Govt. of NCT of Delhi
B & C-Wing, 7th Level, Vikas Bhawan-II
Near Metcalf House,
Civil Lines, Delhi-110054

F.3/RTI/DFW/2016/ID No.1099/ 8607

Dated: 15/12/16

To,
✓ Sh.Paritosh Chakma,
S/o Sh.Rangasur Chakma.
C-3/441, 2nd Floor,
Janakpuri,
New Delhi-110058.

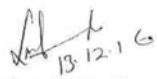
Subject: Supply of Information for RTI application No.1099/DFW under RTI Act, 2005.

This RTI was received in this office on 05.12.2016

Please find enclosed the reply pertaining to Directorate of Family Welfare.

In case you are not satisfied with the order of the PIO you can file appeal within 30 days of issue of the order to the 1st Appellate Authority at the following address:-

Director Family Welfare
First Appellate Authority
B&C-Wing, 7th Level,
Vikas Bhawan-II, Civil Lines,
Delhi-110054



(DR.L.M.Singh)
Public Information Officer(DFW)

F.3/RTI/DFW/2016/ID No-1099/

Dated:

Copy to:

1.The PIO, Dte.General of Health Services, Govt.of NCT of Delhi, F-17, Karkardooma, Delhi.
(for information).


(DR.L.M.Singh)
Public Information Officer(DFW)

DIRECTORATE OF FAMILY WELFARE, GOVT. OF NCT OF DELHI

B&C Wing, Level – 7, Vikas Bhawan – II
Near Metcalf House, Civil Lines, Delhi -110054
Ph: 23813477, Email Id: cmopndt@gmail.com

F.No. 9/17/PNDT/DFW/2016 / 8602

Dated: 13/12/16

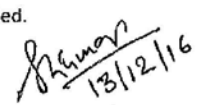
To,
The APIO,
Directorate of Family Welfare,
7th Level, B Wing,
Vikas Bhawan II, Civil Lines,
New Delhi – 54

Sub: Supply of information for Application ID no. 1099/DFW

Sir,

This has reference to your letter no. F No. 3/RTI/DFW/2016/ID No. 1099/8448 dated 6.12.16 from Sh Paritosh Chakma as per available information in the PNDT division of DFW, is as follows for the year 2013-14:-

1. Copy of all proceedings available with the PNDT division, DFW regarding appeals received in the year 2013-14 from:
 - Focus Imaging & Research Center – Annexure A
 - Dr. Sangeeta Jain M.S. Jain Hospita - Annexure B
 - Delhi IVF and Fertility Clinic- Annexure D
 - Tyagi Hospital and Maternity Center - Annexure E
2. Copy of Action Taken Report in 4 appeals (Order copy of State Appropriate Authority)
 - Focus Imaging & Research Center – Annexure A
 - Dr. Sangeeta Jain M.S. Jain Hospita - Annexure B
 - Delhi IVF and Fertility Clinic- Annexure C
 - Tyagi Hospital and Maternity Center - Annexure E
3. Copies of annual report for the year 2014-15 and 2015-16 is yet to be compiled.


(Dr. Satyajit Kumar)
SPO, PC & PNDT Act

Encl: A/a

Directorate of Family Welfare,
Govt. of NCT of Delhi,
Vikas Bhawan II, 7th Floor, 'B' Wing,
Civil Lines, New Delhi - 110054
Email: cmopnd@gmail.com
Ph: 011- 23813215

F.9 (6)/189/PNDT/DFW/2013/1070-74

Dated: 11/5/2013

To,

Dr. S. K. Sogani
Focus Imaging and Research Centre Pvt. Ltd.
77A, Telephone Exchange Road,
Dilshad Garden
Delhi-110095

Sub:- Appeal filed by Focus Imaging and Research Centre Pvt. Ltd. for de-sealing of centre in Dilshad Garden regarding.

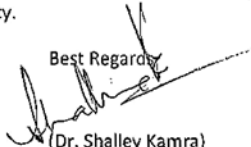
Sir,

This is in reference to appeal filed by you with State Appropriate Authority dated 28th March, 2013 wherein a request for de-sealing of centre in Dilshad Garden was submitted by you.

As per Rule 19(2) of PC & PNDT Act anybody aggrieved by the decision of the Appropriate Authority District level may appeal to the Appropriate Authority at State / UT level within 30 days of the order of the District level Appropriate Authority. You have submitted your appeal much beyond the prescribed time period and hence your appeal is not accepted under the PC & PNDT Act.

This issues with prior approval of State Appropriate Authority.

Best Regards

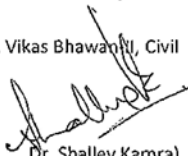

(Dr. Shalley Kamra)
SPO, PNDT

F.9 (6)/189/PNDT/DFW/2013/1070-74

Dated: 11/5/2013

Copy to:-

1. PA to Deputy Commissioner, Govt. of NCT of Delhi, L.M.Bandh, Shastrri Nagar, Geeta Colony, Delhi. (Shahdara District)
2. Chief District Medical Officer, O/o the CDMO, Delhi Admn. Dispy. Bldg. A-14, G-1 Dilshad Garden, Delhi-110095. (Shahdara District)
3. PA to Director, Directorate of Family Welfare, 7th Floor, Vikas Bhawan II, Civil Lines, New Delhi
4. Guard File


Dr. Shalley Kamra)
SPO, PNDT

Anexure-B
18/c

OFFICE OF THE STATE APPROPRIATE AUTHORITY
UNDER THE PRE CONCEPTION & PRE NATAL DIAGNOSTIC TECHNIQUE
(PROHIBITION OF SEX SELECTION) ACT 1994
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI.
DIRECTORATE OF FAMILY WELFARE,
VIKAS BHAWAN II, 7TH FLOOR, B & C WING,
CIVIL LINES, DELHI-110054

Appeal No. 2/2013

Dr. Sangeeta Jain, M/s Jain Hospital

.....Appellant

Versus

District Appropriate Authority, East District

.....Respondent

Quorum:

Dr. D.K. Dewan, Chairperson

Mr. Tarun Sahrawat, Member

Dr. Tripta Gupta, Member

Present:

Dr. Sangeeta Jain, Appellant, alongwith Dr. Anil K. Jain

Mr. P. K. Dabas, SDM, East District, on behalf of Respondent

Date of Order: 26.8.13

ORDER

The case of Appellant Dr. Sangeeta Jain relates to her three Ultrasound Machines being sealed by the District Appropriate Authority based on an inspection that was carried out on 21.3.13, during which it was found that instead of the three registered Ultrasound Machines that were supposed to have been present physically in the registered premises located at 177-178, Jagriti Enclave, Vikas Marg Extn., Delhi, only one Machine was physically present while the two other machines were found located in the Store room of the residence of the Appellant who herself led the inspecting team to that location clearly admitting that she shifted those two machines to save them from any damage due to the ongoing construction activity in the basement of 177-178, Jagriti Enclave, Vikas Marg Extn., Delhi, where dust, dirt and stone cutting was going on as a part of major repair and construction there. At the time of inspection the representative of District Appropriate Authority also found some deficiencies in the records and documents at the clinic. Based on these deficiencies and after issuing a Show Cause Notice to the Appellant the Respondent had suspended the registration of the Appellant till further orders and had sealed the three Ultrasound Machines of this centre. The Show Cause Notice listed the following deficiencies:-

Tripta Gupta

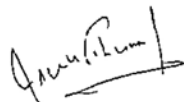
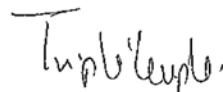
Anil K. Jain

P. K. Dabas

- 2
180/c
- Only Logiq 5 Pro USG Machine with Sr. No. 41844SL2 was noted at the USG Chamber, the other two USG machines were missing.
 - The other two USG Machines were lying at their residence at 4, Pushpanjali, Delhi-92.
 - Referral Slips & Radiology reports were in separate files and were not enclosed to the concern Form Fs
 - The Master Register was not properly maintained.
 - Following deficiencies were observed in Form Fs:-
 - Form Fs were not completely filled
 - Referral slips were not attached
 - Some of the forms did not have signature or thumb impression on patients' declaration.
 - DMC Registration of the performing Radiologist was not present on the forms.
 - Some of the forms had incomplete address of the patient.
 - The column of the number of previous children was not properly filled in many form Fs.

Subsequently the Appellant had Appealed to this State Appropriate Authority against the order of the District Appropriate Authority and based on the Appeal Hearing by the State Appropriate Authority at that time, the case was remanded back to the District Appropriate Authority for reviewing the whole case afresh keeping the observations and submissions during the Appeal that was heard here. The order of the State Appropriate Authority dated: 17.6.13 was duly issued then. Subsequently the District Appropriate Authority has reviewed the case and has reconfirmed on its earlier order by upholding the Suspension and sealing. Copy of this order dated: 5.8.2013 has also been endorsed to the State Appropriate Authority. The Appellant has also approached the State Appropriate Authority for reconsideration of her Appeal for a final decision on this issue as she remains aggrieved because of the non settlement of her Appeal.

Accordingly, State Appropriate Authority has taken up the case again as a continued Appeal in this case and a fresh hearing convened by it on 23.8.13 & 26.8.13. During this Appeal hearing the Appellant has clarified and submitted on the order of the District Appropriate Authority dated: 5.8.13 vide its Para 3(a) on Page 6 which was being interpreted as suggesting that her machines were found shifted from the basement of an unregistered place A-4, Pushpanjali, Delhi to the residence at 4th Floor of A-4, Pushpanjali, another unregistered place. She categorically has submitted in this hearing that during the course of rehearing at the District Appropriate Authority, she had clearly mentioned that two Machines were shifted from the basement of 177-178, Jagriti Enclave, Vikas Marg Extn., Delhi, which is a registered premises, to the residence at A-4, Pushpanjali, Delhi, located on 4th Floor which was not a registered place. She also mentions that the reasons of shifting were same as already submitted by her of preventing damage to the machines. On this the Respondent (SDM) during the course of this hearing

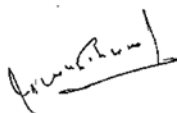




has reconfirmed that the positions stated by the Appellant is agreed and is truthful. He also has submitted that the two machines were found located in the store room of the house at 4th Floor, A-4, Pushpanjali, Delhi, the entry to the house is restricted and is only through the thumb impression application on the electronic security system. He submitted that the machines were found unplugged and not connected to any electrical socket and also were suggestive of being not in use at time of inspection.

F-1

On examining the fresh Order of the District Appropriate Authority and the current hearing in this Appeal, the following are our observations:-

- It is undisputed that Dr. Sangeeta Jain shifted the two machines to her residence only for reasons of protecting them from damage due to dust and stone cutting activity that was ongoing at the time of inspection *and not merely on the ground that they had applied for registration of the new address* as is reflected in the fresh order of the District Appropriate Authority, dated: 5.8.13.
- It is admitted that the two machines that were found in the store room of the Respondents were actually not in use nor they were reflective of their possible use at the time of inspection. The same has been corroborated by the Respondent. Thus the possibility of misuse of the Ultrasound Machine in the instant case is ruled out.
- The Respondent has also admitted that the entry of the house was restricted and easy access to any patient or outsider with the type of Electronic Security arrangement would not have been possible; thus ruling out, in our considered opinion, any possibility of any surreptitious activity in the room.
- On the issue of the documentation and record keeping specifically, it is reconfirmed that though both these 'F' Forms and referral slips were available at the time of Inspection though the inspecting team felt that they should have been appended together. Even the Show Cause Notice mentions their separate presence at the time of Inspection. The Respondent admitted that both these documents of each case were available separately. We have taken into consideration the PC & PNDT Act Section 29 & Rules 9 which do not mandate so and therefore even , if both the 'F' Forms & referral slips are available separately that 'per se' should not be construed as a violation of the PC & PNDT Act.
- On the issue of the original stamping of F Forms missing / absent on the photocopy that were kept in the centre at the time of inspection the same has been confirmed by the Respondent




that all such stamps in original are available in the officially submitted F Forms to the District Appropriate Authority and the submission of the Appellant that photocopy of such Forms due to nature of the stamping ink does not capture the print of stamps cannot be ignored. This in our considered opinion does not constitute a violation under Section 29 read with Rule 9. Further, the Appellant has submitted that she has started putting separate stamps even in the photocopies as a measure of extra caution, which thus endorses the District Appropriate Authority view though certainly no procedural deficiency have been observed, on this aspect.

- On the incompleteness of F Forms we have examined randomly some of the F Forms where the occasional columns in a few forms were found unfilled, though, those column that specifically seek details about previous children and their gender, signature of ultrasonologist, name of referring doctor etc. were found to be by & large fully filled / mentioned. However, the occasional form where this information was lacking was explained by the Appellant as due to the patient being 'first time pregnant' and hence no such details could be made available. She admitted that instead of leaving it blank she would be careful in future by writing 'not applicable' in such situation(s). Thus this deficiency observed by the Inspecting team of the District Appropriate Authority could be interpreted as a slight negligence and casualness but clearly it could not, possibly be, indicative of a deliberate Act at the level of the Appellant.
- It is also a fact that the District Appropriate Authority in its order dated: 5.8.13 has mentioned that though there is no actual proof of any sex determination practices being resorted to by the Appellant, yet serious procedural lapses and adherence to the provision of PC & PNDT Act Rules have been evidenced. In the same order it is also mentioned that the registration was only suspended *for the time being* and it was not cancelled. As per the records of Proceedings of this hearing the Respondent also has duly submitted that no prior violation by this centre (of the Appellant) has ever been reported or detected and the submission of 'F' have been regular and fully compliant.
- Under the above given circumstances we may conclude that minor procedural lapses and deficiency certainly have been noted for which we are of the considered opinion that such a harsh order of sealing of Ultrasound machines in the instant case does not seem to be commensurate in the given whole circumstance of the case .
- Thus, the order of the District Appropriate Authority for Suspension of Registration along with sealing of three Ultrasound machine is set aside with immediate effect. The District Appropriate Authority is directed to ensure desealing of the three Ultrasound Machines with immediate effect.

Leic

Prakash

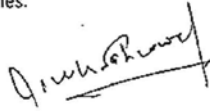
Triple copy.

The District Appropriate Authority is also instructed to issue a warning to the Appellant to be careful in future and update itself with all the provisions, rules, regulation and guidelines issued under the provisions of PC & PNDT Act. The District Appropriate Authority is also instructed to keep a close monitoring of this centre by devising systemic arrangements.


Copy of the order be given to both the parties.



(Dr. D.K. Dewan)
Director,
Directorate of Family
Welfare,
Chairperson



(Mr. Tarun Sahrawat)
Addl. Secretary
(Law & Justice),
Member



(Dr. Tripta Gupta)
Member

OFFICE OF THE STATE APPROPRIATE AUTHORITY
 UNDER THE PRE CONCEPTION & PRE NATAL DIAGNOSTIC TECHNIQUE (PROHIBITION OF SEX
 SELECTION) ACT 1994
 GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI.
 DIRECTORATE OF FAMILY WELFARE,
 VIKAS BHAWAN II, 7TH FLOOR, B & C WING,
 CIVIL LINES
 NEW DELHI-110054

F.No. 9(6)/193/PNDT/DFW/2013/10252

dated: 6-12-13

Appeal No. 3/2013

✓ Delhi IVF and Fertility Centre

....Appellant

Versus

District Appropriate Authority,
 New Delhi District

.....Respondent

Quorum:

Dr. D.K. Dewan, Chairperson
 Dr. Saurabh Kulshreshtha, Member
 Dr. Tripta Gupta, Member

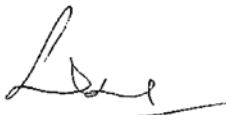
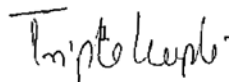
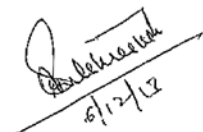
Present:

Dr. Anup Gupta, Appellant with Mr. Sunil Aggarwal
 Dr. Praveen Bala, Nodal Officer New Delhi District on behalf of Respondent

Date of Order: 06.12.2013

This is an Appeal under Section 21 of the Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred to as the PC & PNDT Act, 1994) read with Rule 19(2) of Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 against the Notice dated 30.05.2013 passed by Sh. Ameya Abhyankar, District Appropriate Authority / DM, New Delhi.

By the impugned Notice the registration of the Appellant has been suspended in terms of the PC & PNDT Act and five Ultrasound Machines have been ordered to be sealed and the Appellant had been directed to surrender the Registration Certificates to the District Appropriate Authority.

We have heard the Appellant/ Counsel for the Appellant and the representative of the respondent.

At the outset it has been contended on behalf of the Appellant that the impugned Notice/ Order dated 30.05.2013 is in violation of the principles of natural justice and the same has been passed without giving any opportunity of hearing to the Appellant.

In a nutshell, the facts of the matter are that an inspection of the Appellant centre, which is registered under the the PC & PNDD Act, 1994 as an ultrasound centre, was carried out by a team of National Inspection Monitoring Committee and certain violations were noticed with respect to maintenance of records, etc.

A bare perusal of the impugned notice/ order (titled as a NOTICE and issued to the Appellant) reveals that various facts and details of the inspection carried out at the center of the Appellant have been recorded in the said order/ notice and in the end the registration of the Appellant has been suspended.

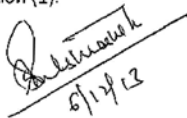
At this stage, it is pertinent to refer to Sec. 20 of the PC & PNDD Act, 1994 which reads as under:

20. Cancellation or suspension of registration.-

(1) The Appropriate Authority may suo-motu, 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).



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The proper procedure to be followed by the District Appropriate Authority was therefore, that it should have issued a notice to the Appellant to Show Cause as to why its registration should not be suspended in view of the reasons mentioned in the notice. The Appellant should have been afforded an opportunity to reply to the Show Cause Notice and thereafter a reasonable opportunity of hearing should also have been granted to the Appellant and thereafter the District Appropriate Authority should have passed a speaking order in the matter.

It is clear that the District Appropriate Authority has not granted any opportunity to the Appellant to reply to the notice nor any reasonable opportunity of hearing has been afforded to the Appellant and the District Appropriate Authority has straight away proceeded to pass the order suspending the registration of the Appellant in the notice itself. This action of the District Appropriate Authority is therefore violative of the legal provisions enshrined under sections 20(1) and section 20(2) of the PC & PNDT Act, 1994 and the general principles of natural justice.

The District Appropriate Authority has not specified that it is resorting to the provisions of section 20 (3) of the PC & PNDT Act, 1994. Moreover under section 20(3) of the PC & PNDT Act, 1994 the Appropriate Authority is required to form an opinion that it is necessary or expedient to suspend the registration of the Genetic Counselling Centre, etc. in public interest and has to record reasons in writing for ordering such suspension. The order does not reveal that the District Appropriate Authority has framed an opinion that it is in public interest to suspend the registration of the appellant and why it is not proper to deal with the matter in terms of sections 20(1) and section 20(2) of the PC & PNDT Act, 1994. The reasons as to why the audi alteram rule is being dispensed with have to be cogent and viable and must be specifically recorded and they must clearly establish that the situation is so grave that the case cannot be dealt with in terms of section 20(1) and 20(2) of the PC & PNDT Act, 1994. Be that as it may, the order does not reveal that the District Appropriate Authority has taken recourse to section 20(3) of the PC & PNDT Act, 1994.

The impugned Order / Notice dated 30.05.2013 is therefore, liable to be set aside on

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Triple Accept

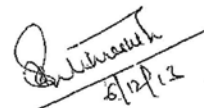
this ground alone without going into the merits of the dispute any further. We are fortified by the judgment dated 02.12.2013 in W.P. (C) no. 7622/ 2013 titled as Moolchand Khairati Ram Hospital v. Department of Health & Family welfare, GNCT of Delhi and judgment dated 02.12.2013 in W.P. (C) no. 4482/ 2013 titled as Rahul Yadav v. GNCT of Delhi of the Hon'ble High Court of Delhi.

The impugned order / notice dated 30.05.2013 is therefore set aside and the matter is remanded back to the District Appropriate Authority for being decided in accordance with law after giving proper opportunity of hearing to the appellant.

The present Appeal is allowed in these terms.

Announced on this 6th Day of December 2013.


 (Dr. D.K. Dewan) 6/12/13
 Director,
 Directorate of Family
 Welfare,
 Chairperson


 (Dr. Saurabh
 Kulshreshtha)
 Addl. Secretary
 (Law, Justice &
 Legislative Assembly),
 Member


 (Dr. Tripta Gupta)
 Member

OFFICE OF THE STATE APPROPRIATE AUTHORITY
UNDER THE PRE CONCEPTION & PRE NATAL DIAGNOSTIC TECHNIQUE (PROHIBITION OF SEX SELECTION)
ACT 1994
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI.
DIRECTORATE OF FAMILY WELFARE,
VIKAS BHAWAN II, 7TH FLOOR, B & C WING,
CIVIL LINES
NEW DELHI-110054

Appeal No. 3/2013

Dr. Anoop Gupta, Delhi IVF and Fertility CentreAppellant

Versus

District Appropriate Authority, New Delhi DistrictRespondent

Quorum:

Dr. D.K. Dewan, Chairperson
Dr. Saurabh Kulshreshtha, Member
Dr. Tripta Gupta, Member

Present:

Dr. Anoop Gupta, Appellant and Mr. Sunil Aggarwal
Dr. Praveen Bala, Nodal Officer New Delhi District on behalf of Respondent


Date of Order: 25.11.13

Arguments on Appeal heard.

Put up for order on 5th December at 4.30 p.m.



(Dr. D.K. Dewan)
Director,
Directorate of Family
Welfare,
Chairperson



(Dr. Saurabh
Kulshreshtha)
Addl. Secretary
(Law & Justice),
Member



(Dr. Tripta Gupta)
Member

OFFICE OF THE STATE APPROPRIATE AUTHORITY
 UNDER THE PRE CONCEPTION & PRE NATAL DIAGNOSTIC TECHNIQUE
 (PROHIBITION OF SEX SELECTION) ACT 1994
 GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
 DIRECTORATE OF FAMILY WELFARE,
 VIKAS BHAWAN II, 7TH FLOOR, B & C WING,
 CIVIL LINES, DELHI-110054

Appeal No. 4/2013

Dr. Satish Tyagi, M/s Tyagi Hospital

.....Appellant

Versus

District Appropriate Authority, North District

.....Respondent

Date of Order: 29.10.2013

1. This Appeal under the Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994 (hereinafter referred to as the PC & PNDT Act, 1994) is directed against the order dated 19.08.2013 passed by SDM, Model Town.

2. The impugned Order dated: 19.8.13 is as under:

"Whereas the registration certificate of M/s Tyagi Hospital & Maternity Center, 210, GT Road, Sarai Pipal Thalla, Near Azadpur Sabji Mandi, Delhi was expired on 17.11.12."

And Whereas, centre had applied for renewal of registration on 22.10.2012

And Whereas, inspection was carried out by State Inspection Monitoring Committee on 2.4.2013 and found many discrepancies.

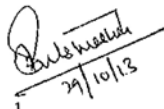

And Whereas, the matter was put in the Advisory Committee Meeting, the member decided to seal the ultrasound machine

And therefore, the registration is suspended U/s 20(3) PC & PNDT Act & Machine being sealed i.e. Alok prosound 2 Sr No. M03746L1 under Rule 12 in public interest".

3. A perusal of the impugned Order reveals that the registration of the Appellant has been suspended in term of Section 20(3) of the PC & PNDT Act, 1994 and the Ultrasound Machine of the Appellant has been sealed in terms of Rule 12 of the PC & PNDT (Prohibition of Sex Selection) Rules, 1996.

4. As far as the first part of order is concerned, the registration of Appellant has been suspended under Section 20(3) of the PC & PNDT Act, 1994. In this respect it is pertinent to advert to the provisions of Section 20 of the PC & PNDT Act, 1994 which reads as under:-

"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)".

5. A bare perusal of Section 20(3) of the PC & PNDT Act, 1994 reveals that the Appropriate Authority is required to form an opinion that it is necessary or expedient to suspend the registration of the Genetic Counselling Centre, etc. in public interest and has to record reasons in writing for ordering such suspension.


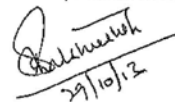
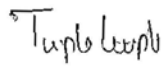
6. A perusal of the impugned order reveals that no reasons have been recorded in writing by the concerned authority. From a plain reading of the impugned order, it is not possible to ascertain as to what prompted the concerned Authority to frame an opinion that it was necessary or expedient to suspend the registration of the Appellant in public interest. Accordingly the impugned order is a non speaking order and deserves to be set aside in so far as it concerns the suspension of the registration of the Appellant.

7. It may also be noted that since the order is based on the inspection dated 02.04.2013 and it has been informed that no Show Cause Notice was issued to the Appellant after the inspection on dated 02.04.2013, the registration of the appellant also could not have been suspended by taking recourse to Sections 20(1) and 20(2) of the PC & PNDT Act, 1994 since the Appellant has not been afforded a reasonable opportunity of being heard.

8. Furthermore, the order in terms of the Sec 20 of the PC & PNDT Act, 1994 is to be passed by the District Appropriate Authority which is the Deputy Commissioner/ DM (North) in the present case. The power to be exercised by the District Appropriate Authority under section 20 of the PC & PNDT Act, 1994 is quasi judicial in nature and the same could not have been delegated by the District Appropriate Authority to the SDM. Since it is the SDM who has passed the order in term of Section 20 of the PC & PNDT Act, 1994 the order is wholly without jurisdiction in so far as the suspension of registration of the appellant is concerned.

9. In these facts and circumstances, the impugned order suspending the registration of Appellant deserves to be set aside.

10. The second part of the order relates to sealing of the Ultrasound Machine of the appellant pursuant to Rule 12 of the PC & PNDT (Prohibition of Sex Selection) Rules, 1996. A perusal of Rule 12 of the PC & PNDT (Prohibition of Sex Selection) Rules, 1996 reveals that the Authority or any Officer authorised in this behalf may seal any material object which may furnish evidence of Commission of an Offence punishable under the Act.

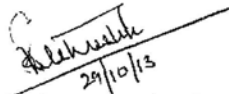
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11. The precondition for invoking Rule 12 is that the material object (the ultrasound machine in present case) may furnish evidence of commission of an Offence punishable under the Act. The order is silent on this aspect. This authority is not aware as to whether any penal action being contemplated by the District Appropriate Authority or not and if yes, as to in what manner the material object may furnish evidence of commission of an Offence punishable under the Act. Moreover it is seen that the appellant has not approached the District Appropriate Authority with any representation against sealing of the ultrasound machine and there is no order passed by the District Appropriate Authority which may be analysed by this authority.

12. In these facts and circumstances liberty is granted to Appellant to approach the District Appropriate Authority with a representation against sealing of his Ultrasound Machine which shall be disposed of by the District Appropriate Authority in accordance with law. The impugned order in so far as it relates to the suspension of registration of the appellant is set aside and the matter is remanded back to the District Appropriate Authority i.e. Deputy Commissioner/ DM (North) for deciding the matter afresh in accordance with law. Appeal is disposed of in these terms.



(Dr. D.K. Dewan)
Director,
Directorate of Family
Welfare,
Chairperson



(Dr. Saurabh Kulshreshtha)
Addl. Secretary
(Law & Justice & LA),
Member



(Dr. Tripta Gupta)
Member

Delhi: Disabling the Girl Child? report is being published as a part of the ACHR's "National Campaign for elimination of female foeticide in India", a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission

All the reports and forthcoming publications are available at:
<http://www.stopfemaleinfanticide.org/>



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