

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

Writ Petition(Civil) No.301/2000

CEHAT & ORS.

Petitioner (s)

VERSUS

UNION OF INDIA AND ORS.

Respondent (s)

(With Appln(s). for permission to submit additional document(s)& exemption from filing O.T.& impleading party & intervention & modification& interventionand intervention& clarification& impleading party& Appln. for taking affidavit on record

Date : 30/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s) Ms. Indra Jaisingh,Sr.Adv.
M/s Sanjay Parikh,A.K.Mishra,Farheen,R.R.
Chandrachud & Mr.A.N.Singh,Advs.

For Respondent (s) Mr. Altaf Ahmed,ASG
Ms. Sunita Sharma,Mr.D.S.Mahra, Ms.Sunita
Sharma and Mr.Krishan Mahajan,Advs.
Mr.N.N.Goswami,Sr.Adv.
Ms. Sunita Sharma,Adv.
Mr. D.S. Mahra,Adv.
Ms. Hemantika Wahi,Ms. Anu Sawhney,Advs.
Mr. Radha Shyam Jena,Adv.
Mr. Ashok Mathur & Mr. Arup Banerjee,Advs.
Mr. Javed Mahmud Rao,Adv.
Mr. K.M.K. Nair,Adv.
Mr. B.V.Gadnis,Ms.Smita Inna, Divya Suri
& Shiv Sagar Tiwari,Advs.
Mr. Sanjay R. Hegde,Adv.
Mr. Rajeev Sharma,Adv.
Mrs V.D. Khanna,Mr.S.K.Shandilya,Advs.
Mr. S.V. Deshpande,Adv.
Mr.Khwairakpam Nobin Singh,Adv.
Mr. Guntur Prabhakar,Adv.
M/s. Rahul Singh,Ms.Vimla Sinha and
Mr. Gopal Singh,Advs
Mr. Anil Shrivastav,Adv.
Mr. Ranjan Mukherjee,Adv.
Mr. A.S. Pundir,Adv.
Mr. P.N. Ramalingam,Adv.
Mr. Tara Chandra Sharma,Adv.
Mr.Sakesh Kumar and Mr. S.K. Agnihotri,Advs.
Mr. B.B. Singh,Adv.
M/s.K.L.Janjani,R.C. Verma,Mukesh Verma,Advs.
Mr. V.G. Pragasam,Adv.
Ms. Rachana Srivastava,Adv.
Mr. Prakash Shrivastava,Adv.

M/s G.S. Chatterjee, P.K.Roy, Feroze Ahmed and Raja Chatterjee, Advs.
M/s Bhargava V. Desai, Sanjeev Kr. Singh and Vanita Mehta, Advs.
Mr. Chander Shekhar Ashri, Adv.
Ms. Manjula Gupta, Adv.
Ms. Indra Sawhney, Adv.
Mr. J.P. Dhanda, Adv.
V. Ramasubramanian, Adv.
Mr. T. Adhyaru, Sr. Adv. for
M/s. T.T.K.-Deepak & Co., Adv.
M/s. Kamini Jaiswal, Aishwarya Rao, Advs.
Mr. Ajay Bansal, DAG.
Mr. T.L.V. Iyer, Sr. Adv.
Mrs. Revathy Raghavan, Adv.
M/s. Ranji Thomas, Bharati Upadhyay, Advs. for
Mr. J.M. Rao, Adv.
Mr. K.R. Sasiprabhu, Adv.
Mr. A. Mariarputham, Ms. Aruna Mathur and Mr. Anurag D. Mathur, Advs.
M/s. Jay Savla, N. Menon and Ms. Reena Bagga, Advs
Mr. Naresh K. Sharma, Adv.
Ms. Krishna Sarma, Asha G. Nair, V.K. Sidatharan & Mr. Atul Kumar, Advs. for Corporate Law Group

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

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On 9th April, 2002, when the matter was called out Mr. Verma appearing for the State of U.P. submitted that appropriate action would be taken within 15 days from that day against the unregistered clinics in compliance with the directions issued by this Court. On the said undertaking the presence of the concerned Health Secretary was dispensed with.

Today, when the matter is called out, Mr. Jhinjiani, learned counsel appearing on behalf of Mr. Verma for the State of U.P. is not in a position to point out as to what action has been taken after 1998 by the State so far. He further states that he does not know the reason as to why the ultra sound machines in the unregistered clinics have not been seized. He seeks some time for filing necessary affidavit of the action taken by the State. Four weeks time is granted for filing affidavit and for taking necessary further action. Considering the fact that this matter is prolonged by the inaction of some officers of the State, time is granted as

prayed for, on the condition that the State of U.P. shall pay Rs.5,000/- as costs. It would be to the State of U.P. to recover the said amount from defaulting officers. The said amount shall be deposited with the Supreme Court Legal Aid Committee.

Learned counsel appearing on behalf of the State of West Bengal states that further necessary action for seizing and sealing the Ultra Sound Machines owned by the clinics, which are not registered, will be taken within 15 days from today, and further survey would be carried out and necessary affidavit would be filed within 8 weeks from today.

Learned counsel for the State of Assam seeks four weeks time for filing necessary affidavit stating inter alia how many unregistered clinics having Ultra Sound Machines, are operating in State of Assam. She further states unregistered clinics would not be permitted to operate and their Ultra Sound Machiness would be seized within four weeks from today

and necessary affidavit would be filed before this Court within six weeks.

With regard to the remaining States, it is directed that concerned Officers shall take further steps for finding out unregistered clinics. If such unregistered clinics are found to be operating in any part of the State, the concerned Officers are directed to seize and seal the said machines, and they are also directed not to permit them to operate. All the States are directed to file necessary affidavit on or before 5th August, 2002.

By order dated 29.01.2002, we, inter alia, directed that the Union of India/concerned authorities may also take the help of the following Associations for the purpose of obtaining information about the user of the ultra sound

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machines/ scanners:

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

In view of this order, Secretary to Family Welfare Department is directed to file necessary affidavit indicating status of further action taken and the information gathered so far.

Stand over to 13th August, 2002.

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(Y.P.Dhamija)
Court Master

(K.K. Chadha)
Court Master