DMC/DC/F.14/Comp.2129/2/2021/ 18th August, 2021

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined an intimation F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi, Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031, as per which Dr. Parasansa Garewal of Raja Nursing Home, 37-A, Pocket-C, Mayur Vihar Phase-II, Delhi-110091 has been convicted by the Court in CC No.897/10/13 and 896/10/13, consequent upon her pleading guilty under the PC & PNDT Act, 1994.

The Order of the Disciplinary Committee dated 20th July, 2021 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined an intimation F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi , Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031 as per which Dr. Parasansa Garewal of Raja Nursing Home, 37-A, Pocket-C, Mayur Vihar Phase-II, Delhi-110091 has been convicted by the Court in CC No.897/10/13 and 896/10/13, consequent upon her pleading guilty under the PC & PNDT Act, 1994.

The Disciplinary Committee perused the intimation F-8(14)/PNDT/Complaints/ 2016/DHS/ED/Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer (PNDT), East Delhi and Judgment dated 19th October, 2015 in CC No.897/10/13 and judgment dated 7th November, 2015 in C.C. 896/10/13, written statement of Dr. Parasansa Garewal and other documents on record.

Dr. Parasansa Garewal presented herself before the Disciplinary Committee and was heard in person.

It is noted that as per the intimation F-8(14)/PNDT/Complaints/2016/DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi , Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031 it is stated that per the Section 23(2) of Pre Conception & Pre Natal Diagnostics Techniques Act(Prohibition of Sex Selection Act, 1994) “*the name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence”.* Accordingly, this is for the kind consideration of the Delhi Medical Council that recently judgement has been delivered in the following case in East District :

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| --- | --- | --- | --- | --- | --- |
| **Case Number & Year** | **Details of Convict/s** | **Violations (provisions)** | **PNDT Regn. No.** | **Date of Judgment & details** | **Judgement Delivered by** |
| Case CC No.47  Case Filing date 06/03/2010 | Dr. Prasansa Garewal of Raja Nursing Home, 37-A, Pocket-C, Mayur Vihar Ph-II, Delhi-110091 | Alleged female foeticide based on sting operation CD & complaint by Beti Bachao Samiti & other observations during subsequent inspection (violation of Section 6(c) of the PNDT Act, Rule 9(4), 13, & 17(2) of PNDT Rules & Section 4 (b) & 3 (2(b(i))) of the MTP Act.) | 561  DMC Regn. no. 10000 | Date of judgement -07/11/2015  1. The accused pleaded guilty & admonished for offence u/s 25 of PNDT Act & u/s 3 of probation of offenders Act.  2. Cost of Rs.500/- was imposed as cost of proceedings u/s 5 of ``probation of offenders Act.  3. Benefit u/s 12 probation of offenders Act granted.  4. Surety of accused was discharged.  5. Endorsement, if any were cancelled.  6. Asked to release the documents, if any to owners. |  |

Copies of the final judgements, in the above mentioned case has been submitted. The Delhi Medical Council is requested to initiate action as per the Section 23(2) of PC & PNDT Act, as mentioned above and proposed by the East District PNDT Advisory Committee, as mentioned above.

Dr. Parasansa Garewal in her written statement averred that a complainant was sent by the Appropriate Authority against her U/s 25 of PNDT Act and the same was marked to the Court of Sh. Saurabh Pratap Singh Laler, A.C.M.M., Karkardooma Court Delhi. The Ld. A.C.M.M. Sh. Saurabh Pratap Singh Laler, Karkardooma Court, Delhi treated the matter in a summary trial as per the provision of Chapter XXI of Cr.P.C. and asked to pay the cost of litigation of Rs.500/- and there is no other punishment and the matter was disposed off and no further action is required when there is violation of rules only. She became agreed on the advice of the Ld. Trial Court and deposited a sum of Rs.500/- as cost of the proceedings as asked by the Trial Court. No other punishment was given to her. The Ld. Trial Court has disposed-off the matter. She has been admonished from the offence U/s 25 of the PNDT Act by the Trial Court as per the provision provided under Section 3 of the Probation of Offender Act and also provisions of summary trial. The admonishment by the Court is not covered under Chapter VII i.e. misconduct of the Indian Medical Council Act. The provision U/s 7.5 and 7.6 of the Act are reproduced here for the kind perusal of the Delhi Medical Council’s good-self i.e. as under :-

*“7.5 Conviction by court of law-: Conviction by a court of law for offences involving moral turpitude/criminal acts.*

*7.6 Sex determination tests – On no account sex determination test shall be undertaken with the intent to terminate the life of a female foetus developing in her mother’s womb, unless there are other absolute indications for termination of pregnancy as specified in the Medical Termination of Pregnancy Act, 1971. Any act of termination of pregnancy of normal female foetus amounting to female foeticide shall be regarded as professional misconduct on the part of the physician leading to penal erasure besides rendering him liable to criminal proceedings as per the provisions of this Act”.*

The offences U/s 25 of the Act is not covered under the said provision. Section 25 of the Act is punishable only in respect of the contravention of the provision of the Act or rules. There is no contravention of the Act but is contravention only in respect of the rule, so, no disciplinary action is required. She is practicing as a doctor for the last number of years and having no complaint and is dedicated to her profession and having good respect in the medical fraternity. The Appropriate Authority is unnecessarily harassing her when the mistakes may occur inadvertently. The Hon’ble High Court of Delhi in a writ petition No. 182 of 2010 has already decided the matter. The action was initiated on the complaint of one NGO and the Secretary of NGO was arrested by the police in a criminal case on the complaint of another doctor. In para 32 of the judgment, it is clear that the contents of the sting operation recorded by the Beti Bachao Samity even if accepted to be correct cannot attract any violation of Section 6 C of the PNDT Act. She has not been convicted by the court in criminal case and only has been admonished. No action is required U/s 23 (2) of PNDT Act. She has not been convicted by the Court in criminal case and the observation of the District Appropriate Authority is not correct. This case is not fit for initiation of the proposed action requested by the Appropriate Authority. A bare perusal of the Order dated 07th December, 2015 makes it clear in para No.4 that she has been admonished for the offence U/s 25 of the PNDT Act. She prays to drop the inquiry when no profession misconduct has been committed by her which is required under Indian Medical Council Act and file may kindly be closed and she be discharged.

The Disciplinary Committee notes that Dr. Prasansa Garewal has been convicted by the Court of ACMM (E)/KKD in CC No.896/10/2013 PS : Pandav Nagar vide Order dated 07th November, 2015 by observing that accused is primarily relying upon judgement tilted Abhilasha Garg and Anr. Vs. Appropriate Authority (PNDT Act) DC (East) & Ors.2010 Law Suit (Del) 3407 for discharge. However, Para 41 of the said judgment clearly states that the said judgment only deals with action taken u/s 20 of the Act and not with the criminal proceedings which would be decided by appropriate court. The said judgment does not absolve the accused of the allegation, it merely states that extreme penalty of cancellation of registration was not proper in the facts of the case. The said judgment thus can be a ground for seeking lesser sentence or probation, but not for discharge of the said accused. During inspection certain minor violation of rules was detected by the inspecting team, hence, prima facie u/s 25 PNDT Act has been made out against the accused and notice is framed accordingly. Notice is explained to accused in vernacular language, to which he pleaded guilty and prays for benefit under Probation of Offenders Act in view of judgment titled Abhilasha Garg and Anr. Vs. Appropriate Authority (PNDT) DC(East) & Ors. In view of plead guilty of accused, accused is admonished for offence alleged u/s 25 PNDT Act and u/s 3 of probation of offenders Act Cost of Rs.500/- imposed upon the accused as cost of proceedings u/s 5 probation of Offenders Act. Cost paid. Benefit u/s 12 of Probation of Offenders Act granted.

In view of the fact that even though Dr. Parasansa Garewal has been convicted and admonished for offence under Section 25 of PNDT Act and under Section 3 of Probation of Offenders Act cost of Rs.500/- has been imposed upon her; the Learned ACMM (E), KKD has released her under Section 12 of Probation of Offenders Act. In view of the same, the Disciplinary Committee recommends that a warning be issued to Dr. Prasansa Garewal (Dr. Prasansha Garewal, Delhi Medical Council Registration 10000) with a direction that she should strictly adhere to the statutory provisions in letter and spirit, in her medical practice.

Matter stands disposed.

Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Anil Kumar Yadav)

Chairman, Eminent Publicman,

Disciplinary Committee Member,

Disciplinary Committee

Sd/: Sd/:

(Dr. G.S. Grewal) (Dr. Dinesh Kumar Negi)

Delhi Medical Association, Expert Member,

Member, Disciplinary Committee

Disciplinary Committee

The Order of the Disciplinary Committee dated 20th July, 2021 was confirmed by the Delhi Medical Council in its meeting held on 23rd July, 2021.

The Council also confirmed the punishment of warning awarded by the Disciplinary Committee to Dr. Prasansa Garewal (Dr. Prasansha Garewal, Delhi Medical Council Registration No.10000).

By the Order & in the name of

Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to :-

1. Dr. Parasansa Garewal of Raja Nursing Home, 37-A, Pocket-C, Mayur Vihar Phase-II, Delhi-110091.
2. District Nodal Officer (PNDT), East Delhi, Office of the District Appropriate Authority(PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031-w.r.t. letter No. F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017-**for information**.
3. Registrar, Madhya Pradesh Medical Council, F-7, Sanchi Complex, Opp. Board Office, Bhopal-462016, Madhya Pradesh **(Dr. Prasansha Garewal is also registered with the Madhya Pradesh Medical Council under Registration No-** **6182 dated 28.09.1984)-for information & necessary action.**
4. National Medical Commission, Pocket-14, Phase-1, Sector-8, Dwarka, New Delhi-110077 -**for information & necessary action.**

(Dr. Girish Tyagi)

Secretary