DMC/DC/F.14/Comp.2487/2/2021/ 03rd December, 2021

**O R D E R**

 The Delhi Medical Council through its Disciplinary Committee examined an intimation D.O. No.31526 dated 11.06.2018 from Shri Abhishek Dev, IAS, District Magistrate, District South West, Kapashera, New Delhi-110037, as per which the charges have been framed under Section 23/25 of PC & PNDT Act, in the case of District Magistrate/District Appropriate Authority(PC-PNDT Act) Vs Dr. Angad Singh owner M/s Raj Lab, WZ-B, Bhagwati Garden, Dwarka More, Near Metro Pillar No.781, Uttam Nagar, New Delhi-110059.

The Order dated 30th September, 2021 of the Disciplinary Committee is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined an intimation D.O. No.31526 dated 11.06.2018 from Shri Abhishek Dev, IAS, District Magistrate, District South West, Kapashera, New Delhi-110037, as per which the charges have been framed under Section 23/25 of PC & PNDT Act, in the case of District Magistrate/District Appropriate Authority(PC-PNDT Act) Vs Dr. Angad Singh owner M/s Raj Lab, WZ-B, Bhagwati Garden, Dwarka More, Near Metro Pillar No.781, Uttam Nagar, New Delhi-110059,

The Disciplinary Committee perused the intimation No.31526 dated 11.06.2018 from the Abhishek Dev, IAS, District Magistrate, District South West, Kapashera, New Delhi-110037, written statement of Dr. Angad Singh, copy of the order dated 31.10.2017 of learned MM-06/W/Delhi in CC No. 1132/4/15 P.S. Uttam Nagar, New Case No. 13393/16 and other documents on record.

Dr. Angand Singh presented himself before the Disciplinary Committee and was heard in person.

It is noted that as per the intimation D.O. No.31526 dated 11.06.2018 of Shri Abhishek Dev, IAS, District Magistrate, District South West, Kapashera, New Delhi-110037, whereas, a complaint was filed in the District Court, Tis Hazari by the District Magistrate (West) against Dr. Angad Singh, Owner of M/s Raj Lab,, WZ-B-3, Bhagwati Garden, Dwarka More, Near Metro Pillar No.781, Uttam Nagar, New Delhi vide CC No.1132/4/15 PS Uttam Nagar (New Case No.13393/16). Whereas, M/s Raj Lab was registered under the PC-PNDT Act vide registration No.DL/W/2013/1483 and Dr. Angad Singh as individual owner responsible for day to day work of the said lab. On 12th November, 2014, a team of SIMC and officers of West District inspected the said premises of M/s Raj Lab and found the various discrepancies as below :-

1. Records of PC-PNDT were not maintained, some entries were missing in the register.
2. Copy of Bare Act was not available.
3. Form F was not available.
4. Form B in original was not available.
5. Ultrasounds reports are kept in computer, no duplicate copy were available in the Centre.
6. For the month of June, 2014, 30 Form F were available and 43 ultrasound reports were generated for the said period from the computer.
7. For the month of July, 2014, 26 Form F were available and 34 ultrasound reports were generated from the computer. The records of 09 patients were not found.
8. Ultrasound reports preserved in computer, duplicate reports of ultrasound not preserved in Centre.

One ultrasound machine No.Logic P5 SI. No.206508SU4 was sealed and the computer system, ultrasound reports for the month of June and July, 2014 were seized alongwith with PC-PNDT register. Now, vide order dated 31st October, 2017, the charges have been framed against Dr. Angad Singh, s/o Sh. Bhagirath Lal r/o B-155, Brotherhood Apartment, H-Block, Vikaspuri, New Delhi-110018 by the Hon’ble Court of Ms. Deepika Singh MM, Tis Hazari Court, Delhi. As per the Section 23 (2) of the PC & PNDT 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”. In view of the above, the Delhi Medical Council is requested to take immediate action in the matter as per the provision of the Act and to submit an ATR to this office for the record.

The Disciplinary Committee notes that the charges against Dr. Angad Singh have been framed by the Hon’ble Court of MM-6/W/Delhi, Tis Hazari Courts, Delhi in CC No : 1132/4/16, PS Uttam Nagar, U/s 23/25 PC-PNDCT Act vide 31st October, 2017 by observing that ‘you (Dr. Angad Singh, s/o Bhagirath Lal) being the owner of M/s Raj Lab, WZ-B-3, Bhagwati Garden, Dwarka Mor, Near Pillar No.781, Uttam Nagar, Delhi which was registered under PNDCT Act were found committing some irregularities and contravention of rules while inspection by SIMC carried on 12.11.2014 and thereby committed an offence punishable U/s 23/25 PC-PNDT Act and within my cognizance. I hereby direct you (Dr. Angad Singh) to be tried by this Court for the aforesaid offence’.

Dr. Angad Singh in his written statement averred that in 2014, PNDT team inspected the Raj Lab and seized his ultrasound machine. He appealed to the Hon’ble State Appropriate Authority constituted under the PC & PNNDT Delhi. The State Appropriate Authority constituted under the PC & PNNDT found only miss-presentation of records and gave judgment in his favour and the authority continue his PNDT registration and his related case is running in last stage in Dwarka Court and judgment is pending due to COVID-19. So, he humbly requests the Delhi Medical Council to give him some time, so that he can show all judgments in his favour.

On being asked by the Disciplinary Committee as to the status of court case CC No.1132/4/16, P.S. Uttam Nagar, U/s 23/25 PC-PNDT Act, he stated that charge has been framed against him and further trial has concluded and the judgment is reserved.

The Disciplinary Committee observes that in regard to the issue raised in this mater, we wouldlike to refer to the judgment dated 03rd May, 2017 of the Hon’ble Supreme Court of India in W.P. (C) No.129 of 2017 titled ‘Federation of Obstetrics and Gynecological Societies of India (FOGSI) Vs. Union of India and others’ wherein legal challenge was made to the provisions of Section 23(1), 23(2) besides proviso to Section 4(3) of the PC & PNDT Act and Hon’ble Supreme Court of India was pleased to hold that ‘no case is made out for striking down the proviso to Section 4(3), provisions of Sections 23(1), 23(2) or to read down Section 20 or 30 of the Act. Complete contents of Form ‘F’ are held to be mandatory’. The Disciplinary Committee shall also allude to the observations made in the said judgement by the Hon’ble Supreme Court of India at Para 86, 87, 91, 92, the contents of which are reproduced herein-below :-

86. *In view of the aforesaid discussion and in our opinion, no case is made out to hold that deficiency in maintaining the record mandated by Sections 5, 6 and the proviso to Section 4(3) cannot be diluted as the aforesaid provisions have been incorporated in various columns of the Form ‘F’ and as already held that it would not be a case clerical mistake but absence of sine qua non for undertaking a diagnostic test/procedure. It cannot be said to be a case of clerical or technical lapse. Section 23(1) need not have provided for gradation of offence once offence is of non-maintenance of the record, maintenance of which itself intend to prevent female foeticide. It need not have graded offence any further difference is so blur it would not be possible to prevent crime. There need not have been any gradation of offence on the basis of actual determination of sex and non-maintenance of record as undertaking the test without the prerequisites is totally prohibited under the Act. The non-maintenance of record is very foundation of offence. For first and second offences, gradation has been made which is quite reasonable.*

*87. Provisions of Section 23(2) has also been attacked on the ground that suspension on framing the charges should not be on the basis of clerical mistake, inadvertent clerical lapses. As we found it is not what is suggested to be clerical or technical lapse nor it can be said to be inadvertent mistakes as existence of the particular medical condition is mandated by Sections 4 and 5 including the age etc. Thus, suspension on framing of charges cannot be said to be unwarranted. The same intends to prevent mischief. We are not going into the minutes what can be treated as a simple clerical mistake that has to be seen case wise and no categorization can be made of such mistakes, if any, but with respect to what is mandatory to be provided in the Form as per provisions of various sections has to be clearly mentioned, it cannot be kept vague, obscure or blank as it is necessary for undertaking requisite tests, investigations and procedures. There are internal safeguards in the Act under the provisions relating to appeal, the Supervisory Board as well as the Appropriate Authority, its Advisory Committee and we find that the provisions cannot be said to be suffering from any vice as framing of the charges would mean prima facie case has been found by the Court and in that case, suspension cannot be said to be unwarranted.*

*91. In light of the nature of offences which necessitated the enactment of the Act and the grave consequences that would ensue otherwise, suspension of registration under Section 23(2) of the Act serves as a deterrent. The individual cases cited by the petitioner-Society cannot be a ground for passing blanket directions, and the individuals have remedies under the law which they can avail. Moreover, the concept of double jeopardy would have no application here, as it provides that a person shall not be convicted of the same offence twice, which is demonstrably not the case here. Suspension is a step-in-aid to further the intendment of act. It cannot be said to be double punishment. In case an employee is convicted for an offence, he cannot continue in service which can be termed to be double jeopardy.*

*92. Non maintenance of record is spring board for commission of offence of foeticide, not just a clerical error. In order to effectively implement the various provisions of the Act, the detailed forms in which records have to be maintained have been provided for by the Rules. These Rules are necessary for the implementation of the Act and improper maintenance of such record amounts to violation of provisions of Sections 5 and 6 of the Act, by virtue of proviso to Section 4(3) of the Act. In addition, any breach of the provisions of the Act or its Rules would attract cancellation or suspension of registration of Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, by the Appropriate Authority as provided under Section 20 of the Act.*

In view of the aforementioned judgment of the Hon’ble Supreme Court of India and in light of the fact that since as on date Dr. Angad Singh is still facing trial in the Court of MM-6/W/Delhi**,** under the provisions of the PC & PNDT Act, and there is no stay on the trial proceedings, the Disciplinary Committee, as per the statutory mandate under section 23(2) PC & PNDT Act, which states that *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;* recommends that registration of Dr. Angad Singh (Delhi Medical Council Registration No.7527) be suspended from the State Medical Register of the Delhi Medical Council, till the criminal case against him is disposed-off.

Matter stands disposed.

Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. G.S. Grewal) (Shri Bharat Gupta)

Chairman, Delhi Medical Association Legal Expert,

Disciplinary Committee Member, Member,

 Disciplinary Committee Disciplinary Committee

Sd/:

(Dr. Dinesh Kumar Negi)

Expert Member,

Disciplinary Committee

The Order of the Disciplinary Committee dated 30th September, 2021 was confirmed by the Delhi Medical Council in its meeting held on 02nd November, 2021.

The Council also confirmed the punishment of suspension of registration of Dr. Angad Singh(Delhi Medical Council Registration No.7527) from the State Medical Register of the Delhi Medical Council in terms of mandate under Section 23(2) PC & PNDT Act, till the criminal case against him is disposed-off.

 By the Order & in the name of

 Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to :-

1. Dr. Angad Singh, Parth Hospital, 25, Ranhola Road, Vikas Nagar, New Delhi-110059.
2. District Magistrate, District South West, Kapashera, Old Terminal Tax Building, New Delhi-110037- w.r.t. letter D.O. No.31526 dated 11.06.2018-for information.
3. Registrar, Uttar Pradesh Medical Council, 5, Sarvapally Mall Avenue Road, Lucknow-226001, Uttar Pradesh (**Dr. Angad Singh is also registered with the Uttar Pradesh Medical Council under registration No-42807/5/4/99**)-**for information & necessary action**.
4. National Medical Commission, Pocket-14, Sector-8, Phase-1, Dwarka, New Delhi-110077-**for information & necessary action.**

 (Dr. Girish Tyagi)

 Secretary