

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION LODGING NO.2059 OF 2012**

Dr.Rajendra G. Goyal & Ors. ..Petitioners
Versus
State of Maharashtra & Ors. ..Respondents.

Mr. J.P. Cama, Senior Counsel with Ms. Sabha Khare, Mr. Hemant Telkar, Mr. Kushal Mehta i/b. Haresh Mehta & Co., for the petitioners.

Ms. Sharmila Modle with Yamuna Parekh for respondent-B.M.C.

**CORAM: MOHIT S. SHAH, C.J. &
N.M. JAMDAR, J.**

DATE : 17 September 2012.

P.C.

Mr. Cama, learned Counsel for the petitioners states that petitioner Nos.1 to 3 are Cardiologists and petitioner No.4 is Anesthetist. It is stated that none of the petitioners is a Medical Practitioner registered under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 (PCPNDT Act). Learned counsel further submits that petitioners are required to use portable ultrasonic sonography machines when sonography is required to be done outside the hospital/clinic where the sonography machine is kept. It is submitted that the question of misuse of the portable ultrasonic sonography machines by the medical practitioners registered under the PCPNDT Act was considered by another Division Bench of this Court in the judgment dated 17 November 2011 and in para 12 of the said judgment it was made clear that the impugned notice and the Court's decision were applicable to machines in the institutes and genetic clinics as mentioned under the PCPNDT Act. It is, therefore, submitted by

the learned counsel for the petitioners that the decision of the appropriate authority to ban portable ultrasonic sonography machines cannot be applied to medical practitioners like the petitioners who are Cardiologists and Anesthetists who are not registered under the PCPNDT Act.

3. Notice to the respondents returnable on **15 October 2012**.

4. Learned counsel for the petitioners prays for interim injunction in terms of prayer (d) and also submits that the petitioners are ready to have 'Silent Observer' installed on their portable ultrasonic sonography machines.

5. Having heard the learned counsel for the petitioners, by this ad-interim order we direct the respondents herein not to prohibit the petitioners from using their portable ultrasonic sonography machines outside their hospitals/clinics subject to the condition that the petitioners shall have 'Silent Observer'/tracking machine installed on their portable ultrasonic sonography machines.

6. In case the petitioners approach respondent No.2 -Medical Officer of Health, Municipal Corporation of Greater Mumbai with their portable ultrasonic sonography machines and 'Silent Observer'/tracking machine respondent No.2 shall certify installation of the silent observer/tracker.

Ms.Modle, learned counsel waives notice for respondent No.2.

CHIEF JUSTICE

(N.M. JAMDAR, J.)