

WP-11247-2015, WP-13493-2015, WP-16808-2015
& WP-21144-2015

18.1.2017.

Shri T.S. Ruprah, learned Senior Counsel with Shri A.K. Pandey, learned counsel for petitioner in WP-11247-2015 and WP-21144-2015.

Shri Devesh Bhojne and Shri Anurag Gohil, learned counsel for respondent No.1 and for intervenor respectively in WP-11247-2015.

Shri Neeraj Tiwari, learned counsel for petitioner in WP-13493-2015.

Smt. Shahin Fatima, learned Govt. Advocate for the State of M.P.

This common order shall lead to final disposal of all the aforesaid writ petitions as the issue involved in these cases are similar and therefore, were analogously heard.

Petitioners in WP-11247-2015 seek following reliefs :

- (i) To quash the impugned order dated 06-05-2015, Annexure P-6, passed by the Secretary/Director/State Appropriate Authority, Public Health and Family Welfare Department, Bhopal, M.P.
- (ii) To direct that in the alternative all expenditure on installation of tracking device/silent observer and other incidental expenses thereto shall be borne by the State.

(iii) Any other relief that this Hon'ble Court deems fit and proper in the facts and circumstances of this case, may also be kindly granted.

Additional reply has been filed on behalf of respondents No.2 to 4 supported by an affidavit sworn in by Dr. Vandana Sharma, Deputy Director, Health Services, Bhopal; wherein paragraph 2 and 3 it is stated :

2. Meeting of the Expert Committee on the use of the Active Tracker for effective tracking of USG machines was held on 24th August, 2015 under the Chairmanship of Director RCH. The committee gave following recommendation regarding the use of tracker device.

- Active tracker cannot be advocated as there is enough evidence to show that it has not contributed towards effective tracking and therefore any improvement of sex ratio at birth.
- Active tracker has not been able to identify the violation under the PCPNDT Act.
- Active tracker has financial implication and would increase the cost of procedures ultimately for patients/pregnant women.
- Tampering with Active Tracker is always possible and undetectable.
- Active tracker will generate huge data/images that will require sizeable human resources for its management and overburden

the Appropriate Authorities without knowing whether it will stand the legal scrutiny in the Court of law.

- Any internet dependent monitoring system for tracking USG machines is not practical due to the problem of connectivity.
- It based monitoring systems cannot be useful for monitoring the misuse of unregistered/unauthorised USG machines which are still out of the purview of the PC and PNDT Law Annexure R/2.

3. Accordingly, as per the recommendations of the Expert Committee, the order dated 06-05-2015 for mandatory installation of tracker device by all Centres registered under the PCPNDT Act was nullified by order dated 27-08-2016. Annexure R/3 and Annexure R/4.

Since the impugned order has been nullified by order-dated 27.8.2016 and the relief having been worked out, no further order is warranted.

The consequences would follow in furtherance to the order-dated 27.8.2016.

Petitions are **disposed of** finally in above terms. Parties to bear their respective costs.

The other legal issues which has been raised in these petitions are left open.

(SANJAY YADAV)
JUDGE