

**Compliance affidavit to be filed by the central government on the following directions given by this hon'ble court' on various dates in wp (civil ) no :301/2000.**

Date of order	Directions given by this hon'ble court' to the central government
4.5.2001	<ul style="list-style-type: none"> <li>• Creation of public awareness against sex determination through appropriate release/programmes in the electronic media</li> <li>• To implement with all vigor the PNDT Act and the rules framed in 1996</li> <li>• RULE 15 which provides that the intervening period between two meetings of the advisory committee's constituted under sub Section 5 of Section 17 of the PNDT Act, to advise the Appropriate Authorities shall not exceed 60 days, should be strictly adhered to</li> </ul> <p>In respect of the central supervisory board :</p> <ul style="list-style-type: none"> <li>• Central Supervisory Board must create public awareness against the practice of sex determination through appropriate releases/programmes in the electronic media as provided under Section 16(iii) of the PNDT Act</li> <li>• Meetings of the CSB should be held at least once in six months (Proviso to Section 9[1] of the Act)</li> <li>• Power of appointment of the Central Government under Section 7(2)(e), must be utilized in such a way so as to include those persons [ including eminent social scientists and representations of Women Welfare Organizations ] who can genuinely spare some time for the proper implementation of the Act</li> <li>• The CSB shall review and monitor the implementation of the Act as per Section 16(ii)</li> <li>• The CSB shall issue directions to all the State / UT Appropriate Authorities to furnish quarterly returns to the CSB along with a report on the working of the Act. These returns must contain information on the following: <ul style="list-style-type: none"> <li>- survey of bodies specified in section 3 of the Act</li> <li>- registration of bodies specified in section 3 of the Act</li> <li>- action taken against non registered bodies, inclusive of search and seizure</li> <li>- complaints received by the appropriate authorities and action taken pursuant thereto</li> <li>- number and nature of awareness campaigns undertaken and the results flowing there from</li> </ul> </li> <li>• The CSB shall examine the necessity of amending the Act keeping in mind the emerging technologies and make recommendations to the Central Government as per section 16 of the Act</li> <li>• The CSB must lay down a code of conduct under section 16(iv) of the Act, to be observed by persons working in the bodies specified therein and ensure it's publication so that the public at large can be made aware</li> <li>• The CSB must see it to it that awareness is created by medical professional bodies/associations against sex determination and to ensure the implementation of the Act</li> </ul>
7.11.2001	<ul style="list-style-type: none"> <li>• Court recording the statement of Mr. Mahajan about the decision of the Central Government, to set up a National Inspection and Monitoring Committee for the implementation of the Act.</li> </ul>

<b>11.12.2001</b>	<ul style="list-style-type: none"> <li>For implementation of the Act and the rules, the Central Government is directed to frame appropriate rules with regard to the sale of ultra sound machines to various clinics and issue directions not to sell machines to unregistered bodies</li> </ul>
<b>29.1.2002</b>	<ul style="list-style-type: none"> <li>Direction to the Union Of India / Central Government to take help of the following Associations or their members should be taken for obtaining information about the users of ultra sound machines, namely <ul style="list-style-type: none"> <li>-Indian Medical Association [IMA}</li> <li>-Indian Radiological Association [IRA]</li> <li>-Federation of Obstetrics and Gynecologists Society of India [FOGSI}</li> </ul> </li> </ul>

**Suggestions of the Petitioners :**

The Petitioners humbly request this Hon'ble Court' to direct the Central government to give information on the following points in it's affidavit, which is very necessary for the strict compliance of the orders so far passed by this Hon'ble Court' in the matter.

**Awareness :**

- The Central Government should state about their efforts for publicity and creation of awareness through appropriate release programmes in the print and electronic media, with details of dates and places.
- The Central Government should give information on the publicity given through posters and hoardings etc by specifying the numbers of such posters and hoardings displayed, places/locations where such posters/hoardings have been displayed.
- The Central Government should specify the overall efforts made by them in promoting awareness regarding the Act and the orders of this Hon'ble Court', namely dates of the awareness programmes conducted with a list of the material disseminated by them and an assessment report of the impact.

**Functioning of the central supervisory board[csb] :**

- Activities of the CSB after directives of this Hon'ble Court' in creating public awareness, with specific and necessary details.
- Details and dates of the meetings of the CSB and decisions taken therein .
- Present members of the CSB and their participation in the meetings, particularly the non- official members.
- Efforts made for the effective implementation and monitoring of the PNDT Act.
- Status of the directives given by the CSB to the States/ UT's and it's compliance. The Central Government should also mention whether the reports so submitted contain information on the issues of survey, registration, action taken against defaulters, search and seizures and the complaints received.
- Whether the measures taken by the CSB to create awareness by medical professional bodies/associations against sex determination or not and the steps taken by them including the Medical Council of India and the State Medical Councils. The Petitioners suggest that the Medical Council of India should include instructions on the PNDT Act in the undergraduate and the post graduate level.

**Proposed amendments in the PNDT Act :**

- With regard to the amendments proposed in the PNDT Act the Central government may be directed to throw light on the progress of such amendments in their affidavit.
- Status of framing of rules regarding the sale of ultra sound machines as directed on 11.12.01.
- Details of the cases filed in different High Court's/Courts, with orders and steps taken by the Union of India relating to the PNDT Act.

- Details of the National Monitoring and Inspection Committee, its members, its reports, mechanism of inspection and monitoring and its implementation. Action taken by the State/UT on the findings/ directives of the said Committee.

**Compliance affidavit to be filed by the states/ut's on the following directions given by this hon'ble court' on various dates in wp ( civil ) no : 301/2000.**

Date of order	Directions given by this hon'ble court' to the states/ ut's
4.5.2001	<ul style="list-style-type: none"> <li>• Directed to appoint fully empowered appropriate authorities at district and sub district levels and advisory committees to aid and advise the Appropriate Authority in discharge of its functions as per Section 17(5)</li> <li>• Such persons should be appointed as members of the Advisory Committee who can devote some time to the work assigned to them[section 17 (6)(d)]</li> <li>• A list of the Appropriate Authorities should be published in print and electronic media in the respective state/UT's</li> <li>• Create Public awareness against the practice of pre- natal sex determination and female feticide through print media, electronic media and by hoardings and other appropriate means</li> <li>• It must be ensured that all the State / UT appropriate Authorities furnish their quarterly returns giving a report on the working of the Act to the CSB. These reports should also contain information on the following: <ul style="list-style-type: none"> <li>- survey of bodies specified in Section 3 of the Act</li> <li>- registration of bodies specified in Section 3 of the Act</li> <li>- action taken against non registered bodies, inclusive of search and seizure</li> <li>- complaints received by the appropriate authorities and action taken pursuant thereto</li> <li>- number and nature of awareness campaigns undertaken and the results following there from</li> </ul> </li> </ul> <p>In respect of the appropriate authorities :</p> <ul style="list-style-type: none"> <li>• prompt action must be taken against any person/body, who issues or causes to be issued any advertisement in violation of Section 22 of the Act</li> <li>• prompt action to be taken against all bodies specified in Section 3 of the Act as also against persons who are operating without a valid certificate of registration under the Act</li> <li>• quarterly returns must be furnished to the CSB giving a report on the implementation and the working of the Act, inter alia containing information on the following: <ul style="list-style-type: none"> <li>- survey of bodies specified in section 3 of the Act</li> <li>- registration of bodies specified in section 3 of the Act</li> <li>- action taken against non registered bodies, inclusive of search and seizure</li> <li>- complaints received by the appropriate authorities and action taken pursuant thereto</li> </ul> </li> </ul> <p>number and nature of awareness campaigns undertaken and the results flowing there from</p>
19.9.2001	<ul style="list-style-type: none"> <li>• centres which are not registered must be prosecuted by the authorities under the Act and there is no question of issue of warning and to permit them to continue with their illegal activities</li> <li>• Appropriate Authorities / any officer of the Central or State government</li> </ul>

	<p>authorized in this behalf must file a complaint under Section 28 of the Act for prosecuting the offenders</p> <ul style="list-style-type: none"> <li>• Appropriate Authorities at district level must carry out the necessary survey of clinics and take appropriate action in case of non registration or non compliance</li> <li>• Appropriate Authorities are not only empowered to take criminal action but also to search and seize the documents, records and objects etc of the un registered bodies under Section 30</li> <li>• Quarterly returns to the CSB should be submitted by the state/UT's giving information on the following: <ul style="list-style-type: none"> <li>- Survey of centres/laboratories/clinics</li> <li>-Registration of these bodies</li> <li>-Action taken against non registered bodies</li> <li>-Search and seizure</li> <li>-Number of awareness campaigns</li> <li>-Results of the campaigns</li> </ul> </li> </ul> <p>All the state / UT's directed to ensure the full compliance of the Act and compliance reports to be submitted before the court</p>
<b>11.12.2001</b>	<ul style="list-style-type: none"> <li>• State Governments are required to publish the names of the Advisory Committee members in various districts so that if there is any complaint any citizen can approach them</li> <li>• Statistics and information given by way of affidavits should be given district wise</li> </ul>
<b>29.1.2002</b>	<ul style="list-style-type: none"> <li>• State Governments /UT's directed to take immediate action on the basis of the information supplied by the manufacturing companies/Ngo's with regard to ultrasound machines and to assess whether the bodies using such machines are getting them registered under the Act and if not then the machines should be sealed and seized for the time being</li> <li>• The Appropriate Authorities directed to follow the mandatory procedure prescribed under Section 19 of the Act before granting a certificate of registration to any person or organization for starting a genetic clinic/lab /counseling centre</li> <li>• Direction to the concerned authorities to seek help of the following Associations or their members should be taken for obtaining information about the users of ultra sound machines, namely <ul style="list-style-type: none"> <li>-Indian Medical Association [IMA}</li> <li>-Indian Radiological Association [IRA]</li> <li>-Federation of Obstetrics and Gynecologists Society of India [FOGSI}</li> </ul> </li> </ul>
<b>9.4.2002</b>	<p>All the States directed to take appropriate action in continuing further survey so that unregistered clinics do not operate in any part of the country and that the Act is fully implemented</p>
<b>30.4.2002</b>	<ul style="list-style-type: none"> <li>• Further steps to be undertaken to find out the unregistered clinics</li> </ul> <p>If un registered clinics are found then the concerned officers are directed to seize and seal the machines and also directed not to permit such un registered clinics to operate</p>

**Suggestions of the petitioners :**

This Hon'ble Court' is humbly requested that the States/UT's may be directed to give information on the following points in their affidavits, namely :

**REGULATORY BODIES :**

- The States/Ut's may give be directed to specify whether they have appointed fully empowered appropriate authorities at district and sub district levels along with the

advisory committee's to aid and advise the appropriate authorities, which is its obligation under Section 17(5) of the Act.

- The States /UT's must specify whether people who can devote quality time have been appointed in such bodies. For this purpose they must state in their affidavit's whether a list of the appropriate authorities both at the district and the sub district level has been published in the news papers/electronic media, so as to make such bodies and their members publicly known. They may be directed to specify whether they have done so in both English and the vernacular news papers and if not then what measures have been taken to publicize the membership of such bodies.
- They may be directed to mention whether the appropriate authorities have complied with the obligation of sending quarterly returns to the CSB and in addition specify the dates when such returns were sent and the number of quarterly returns submitted so far.
- The States/UT's may be directed to mention in their affidavits whether prompt action has been taken by the regulatory bodies against any person / body that has issued any advertisement in violation of Section 22 of the Act .They must give information on the number of such actions, the specifications of the people involved, dates of prosecutions and the results.
- The States/UT's may be directed to give information on the meetings of the appropriate authorities and the advisory councils , for which they may be required to specify the number of meetings, dates of meetings, places of such meetings, quorum of the meetings, names of the absent members, information on the participation level on the day of the meeting, information on the amount of participation by the non official members and the minutes of such meetings.

#### **Awareness :**

- The State/UT's should state about their efforts for publicity and creation of awareness through appropriate release programmes in the print and electronic media, with details of dates and places.
- The States/Ut's should give information on the publicity given through posters and hoardings etc by specifying the numbers of such posters and hoardings displayed, places/locations where such posters/hoardings have been displayed.
- The States/Ut's should specify in their affidavit the overall efforts made by them in promoting awareness regarding the Act and the orders of this Hon'ble Court', namely the dates and details of the awareness programmes conducted, with a list of the material disseminated by them and an assessment report of the impact.

#### **Surveys and registration:**

- The States/Ut's should specify the total number of surveys conducted , the dates on which such surveys were conducted and actions taken.
- They should mention in figures the total number of bodies surveyed, the total number of bodies registered and the total number of bodies not registered.
- The States/UT's should specify whether in granting registrations the monitoring provisions of the PNDT Act , in particular Section 19 and the directives of this Hon'ble Court', are strictly followed. They must specify whether the centres which are not registered are being prosecuted , whether such non registered centres are completely being stopped from performing their activities, whether complaints regarding unregistered centres are being filed , how many such complaints have been filed and what is the present position of such complaints in terms of being either disposed of or still pending, specifications of the action taken in respect of non registered bodies, number of unregistered machines seized and sealed, promptness of the action so taken in respect of pending cases and follow up of the old prosecutions and in case no action is taken reasons should be given for not taking any action.

- With regard to the fee collected by way of registration under the Act, the States/UT's must be directed to mention in their affidavits whether the money so collected is kept under separate accounts at the district level and also give information on how much of the money is utilized for the purposes of the PNDD Act. A plan of action for utilizing this amount should be submitted.

**Information/help sought from other bodies :**

- The States/UT's should mention in their affidavits details of information collected from the manufacturing companies in ascertaining the total number of ultra sound machines supplied and action taken thereafter.
- The States/UT's must be directed to mention in their affidavits whether they have sought information on the users of ultra sound machines from the following bodies and if they have done so then how exactly has the information given by such bodies being utilized by them for the promotion of the provisions of the PNDD Act, namely :
  - Indian Medical Association[IMA]
  - Indian Radiological Association[IRA]
  - Federation of Obstetrics and Gynecologists of India [FOGSI].
- Details of cases filed in the respective High Court's(Its benches) / other Courts relating to the PNDD Act, with orders and the steps taken by the State Government.
- Last quarterly report ( District wise) filed by the State Government before the CSB to be submitted along with their affidavits for perusal and directives, if any , by this Hon'ble Court'.

Lastly the Petitioner's are requesting this Hon'ble Court' to direct the State of Jammu and Kashmir to file a similar affidavit since the PNDD Act has been finally enacted in the State and thus it makes it obligatory on their part too to apprise this Hon'ble Court' about the latest position of the State in terms of the PNDD Act.