REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 349 OF 2006

Voluntary Health Association of Punjab ... Petitioner(s)

Versus

Union of India and Others ... Respondent(s)

WITH

WRIT PETITION (CIVIL) NO. 575 OF 2014

J U D G M E N T

Dipak Misra, J.

The two writ petitions being inter-connected in certain aspects were heard together and are disposed of by the singular order. We shall first deal with the grievance agitated in Writ Petition (Civil) No. 349 of 2006 and thereafter advert to what has been asserted in the other writ petition. Be it stated immediately that the issues raised in

Writ Petition (Civil) No. 349 of 2006 are not agitated for the first time, for they had been raised on earlier occasions and dealt with serious concern and solemn sincerity. It is because they relate to the very core of existence of a civilized society, pertain to the progress of the human race, and expose the maladroit efforts to throttle the right of a life to feel the mother earth and smell its fragrance. And, if we allow ourselves to say, the issues have been highlighted with sincere rhetorics and balanced hyperboles and ring the alarm of destruction of humanity in the long run. It is not a group prophecy, but a significant collective predication. The involvement of all is obvious, and it has to be. The heart of the issue that is zealously projected by the petitioner is the increase of female foeticide, resultant imbalance of sex ratio and the indifference in the implementation of the stringent law that is in force. In essence, the fulcrum of the anguished grievance lays stress on the non-implementation of the provisions of The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for brevity "the Act") and The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex

Selection) Rules, 1996 (for short "the Rules") framed under the Act by the competent authorities who are obliged to do so.

2. The grievance has a narrative, and it needs to be stated.

3. Realising the rise of pre-natal diagnostic centres in urban areas of the country using pre-natal diagnostic techniques for determination of sex of the foetus and that the said centres had become very popular and had tremendous growth, as the female child is not welcomed with open arms in many Indian families and the consequence that such centres became centres for female foeticide which affected the dignity and status of women, the Parliament brought in the legislation to regulate the use of such techniques and to provide punishment for such inhuman act. The objects and reasons of the Act stated unequivocally that it was meant to prohibit the misuse of pre-natal diagnostic techniques for determination of sex of the foetus, leading to female foeticide; to prohibit advertisement of pre-natal diagnostic techniques for detection or determination of sex; to permit and regulate the

use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders; to permit the use of such techniques only under certain conditions by the registered institutions; and to punish for violation of the provisions of the proposed legislation. The Preamble of the Act provides for the prohibition of sex selection before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto. Be it noted when the Act came into force, it was named as the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and after the amendments in 2001 and 2003, in the present incarnation, it is called The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

4. As the violence and cruelty meted out to women gradually got revealed due to rights and protections prescribed under various legislations, the Court perceived the magnitude of the crime. Such a situation compelled this Court, in ***Ajit Savant Majagvai v. State of Karnataka***[1], while dealing with the physical violence, torture, mental cruelty and murder of the female particularly the wife, to comment on the degeneration of relationship and the prevalent atmosphere by observing that:-

> "3. Social thinkers, philosophers, dramatists, poets and writers have eulogised the female species of the human race and have always used beautiful epithets to describe her temperament and personality and have not deviated from that path even while speaking of her odd behaviour, at times. Even in sarcasm, they have not crossed the literary limit and have adhered to a particular standard of nobility of language. Even when a member of her own species, Madame De Stael, remarked "I am glad that I am not a man; for then I should have to marry a woman", there was wit in it. When Shakespeare wrote, "Age cannot wither her; nor custom stale, her infinite variety", there again was wit. Notwithstanding that these writers have cried hoarse for respect for "woman", notwithstanding that Schiller said "Honour women! They entwine and weave heavenly roses in our earthly life" and notwithstanding that the Mahabharata mentioned her as the source of salvation, crime against "woman" continues to

[1] (1997) 7 SCC 110

> rise and has, today undoubtedly, risen to alarming proportions.
>
> 4. It is unfortunate that in an age where people are described as civilised, crime against "female" is committed even when the child is in the womb as the "female" foetus is often destroyed to prevent the birth of a female child. If that child comes into existence, she starts her life as a daughter, then becomes a wife and in due course, a mother. She rocks the cradle to rear up her infant, bestows all her love on the child and as the child grows in age, she gives to the child all that she has in her own personality. She shapes the destiny and character of the child. To be cruel to such a creature is unthinkable."
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> [Emphasis added]

5. We may repeat, the aforestated observation though made totally in a different context but nonetheless, it seemly stated the marrow of the problem. Needless to emphasise, the predicament with regard to female foeticide by misuse of modern science and technology has aggravated and enormously affected the sex ratio. To eradicate the malady, the Parliament, as stated earlier, had enacted the Act. In the first year of this century, a petition under Article 32 was moved for issuing directions to implement the provisions of the said Act by (a) appointing appropriate authorities at State and district levels and the Advisory Committees; (b) issuing direction to the Central Government to ensure that

the Central Supervisory Board meets every 6 months as provided under the PNDT Act; and for banning of all advertisements of prenatal sex selection including all other sex-determination techniques which can be abused to selectively produce only boys either before or during pregnancy. A two-Judge bench in ***Center for Enquiry into Health & Allied Themes (CEHAT) and others v. Union of India and others***[2] and ***Center for Enquiry into Health & Allied Themes (CEHAT) and others v. Union of India and others***[3] on 04.05.2001 issued certain directions. Apart from the directions contained in the said orders, the Court, while finally disposing of the writ petition, issued the following directions:-

> "(a) For effective implementation of the Act, information should be published by way of advertisements as well as on electronic media. This process should be continued till there is awareness in the public that there should not be any discrimination between male and female child.
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> (b) Quarterly reports by the appropriate authority, which are submitted to the Supervisory Board should be consolidated and published annually for information of the public at large.

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[2] (2001) 5 SCC 577
[3] (2003) 8 SCC 398

(c) Appropriate authorities shall maintain the records of all the meetings of the Advisory Committees.

(d) The National Inspection and Monitoring Committee constituted by the Central Government for conducting periodic inspection shall continue to function till the Act is effectively implemented. The reports of this Committee be placed before the Central Supervisory Board and State Supervisory Boards for any further action.

(e) As provided under Rule 17(3), the public would have access to the records maintained by different bodies constituted under the Act.

(f) The Central Supervisory Board would ensure that the following States appoint the State Supervisory Boards as per the requirement of Section 16-A: 1. Delhi, 2. Himachal Pradesh, 3. Tamil Nadu, 4. Tripura, and 5. Uttar Pradesh.

(g) As per the requirement of Section 17(3)(a), the Central Supervisory Board would ensure that the following States appoint the multi-member appropriate authorities: 1. Jharkhand, 2. Maharashtra, 3. Tripura, 4. Tamil Nadu, and 5. Uttar Pradesh. It will be open to the parties to approach this Court in case of any difficulty in implementing the aforesaid directions".

6. Despite the directions issued by the Court, there had not been proper implementation and that compelled the present petitioner, namely, Voluntary Health Association of Punjab to file the present Writ Petition seeking various directions. The Court on 08.01.2013 took note of the fact that the provisions had not been adequately implemented

by the various States and Union Territories and accordingly directed for personal appearance of the Health Secretaries of the States of Punjab, Haryana, NCT of Delhi, Rajasthan, Uttar Pradesh, Bihar and Maharashtra, to examine what steps they had taken for the proper and effective implementation of the provisions of the Act as well as the various directions issued by this Court.

7. At a later stage, a reference was made to 2011 Census of India to highlight there had been a sharp decline in the female sex ratio in many States. It was also observed that there had been no effective supervision or follow-up action so as to achieve the object and purpose of the Act. It was observed that mushrooming of various sonography centres, genetic clinics, genetic counselling centres, genetic laboratories, ultrasonic clinics, imaging centres in almost all parts of the country called for more vigil and attention by the authorities under the Act. The Court also found that their functioning was not being properly monitored or supervised by the authorities under the Act or to find out whether they are misusing the pre-natal diagnostic

techniques for determination of sex of foetus leading to foeticide.

8. A reference was made to various facets of the Act and the Rules and ultimately the Court in ***Voluntary Health Association of Punjab v. Union of India and others***[4] issued the following directions:-

> "9.1. The Central Supervisory Board and the State and Union Territories Supervisory Boards, constituted under Sections 7 and 16-A of PN & PNDT Act, would meet at least once in six months, so as to supervise and oversee how effective is the implementation of the PN & PNDT Act.
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> 9.2. The State Advisory Committees and District Advisory Committees should gather information relating to the breach of the provisions of the PN & PNDT Act and the Rules and take steps to seize records, seal machines and institute legal proceedings, if they notice violation of the provisions of the PN & PNDT Act.
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> 9.3. The committees mentioned above should report the details of the charges framed and the conviction of the persons who have committed the offence, to the State Medical Councils for proper action, including suspension of the registration of the unit and cancellation of licence to practice.
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> 9.4. The authorities should ensure also that all genetic counselling centres, genetic laboratories and genetic clinics, infertility clinics, scan centres, etc. using pre-conception and pre-natal diagnostic techniques and procedures should maintain all records and all forms, required to be maintained under the Act and the Rules and the duplicate copies of the same be sent to the district

[4] (2013) 4 SCC 1

authorities concerned, in accordance with Rule 9(8) of the Rules.

9.5. States and District Advisory Boards should ensure that all manufacturers and sellers of ultrasonography machines do not sell any machine to any unregistered centre, as provided under Rule 3-A and disclose, on a quarterly basis, to the State/Union Territory concerned and the Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A(2) of the Rules.

9.6. There will be a direction to all genetic counselling centres, genetic laboratories, clinics, etc. to maintain Forms A, E, H and other statutory forms provided under the Rules and if these forms are not properly maintained, appropriate action should be taken by the authorities concerned.

9.7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultrasonography clinics, in three months' time.

9.8. Steps should be taken by the State Governments and the Union Territories to educate the people of the necessity of implementing the provisions of the Act by conducting workshops as well as awareness camps at the State and district levels.

9.9. Special cell be constituted by the State Governments and the Union Territories to monitor the progress of various cases pending in the courts under the Act and take steps for their early disposal.

9.10. The authorities concerned should take steps to seize the machines which have been used illegally and contrary to the provisions of the Act and the Rules thereunder and the seized machines can also be confiscated under the provisions of the Code of Criminal Procedure and be sold, in accordance with law.

9.11. The various courts in this country should take steps to dispose of all pending cases under

> the Act, within a period of six months. Communicate this order to the Registrars of various High Courts, who will take appropriate follow-up action with due intimation to the courts concerned."

A further direction was given to file the Status Report within a period of three months. It is apt to note here that in the concurring opinion Dipak Misra, J. only highlighted certain aspects that pertained to direction contained in paragraph 9.8.

9. We may profitably reproduce certain passages from the concurring opinion:-

> "14. Female foeticide has its roots in the social thinking which is fundamentally based on certain erroneous notions, egocentric traditions, perverted perception of societal norms and obsession with ideas which are totally individualistic sans the collective good. All involved in female foeticide deliberately forget to realise that when the foetus of a girl child is destroyed, a woman of the future is crucified. To put it differently, the present generation invites the sufferings on its own and also sows the seeds of suffering for the future generation, as in the ultimate eventuate, the sex ratio gets affected and leads to manifold social problems. I may hasten to add that no awareness campaign can ever be complete unless there is real focus on the prowess of women and the need for women empowerment.
>
> x x x x x

19. A woman has to be regarded as an equal partner in the life of a man. It has to be borne in mind that she has also the equal role in the society i.e. thinking, participating and leadership.

x x x x x

21. When a female foeticide takes place, every woman who mothers the child must remember that she is killing her own child despite being a mother. That is what abortion would mean in social terms. Abortion of a female child in its conceptual eventuality leads to killing of a woman. Law prohibits it; scriptures forbid it; philosophy condemns it; ethics deprecate it, morality decries it and social science abhors it. Henrik Ibsen emphasised on the individualism of woman. John Milton treated her to be the best of all God's work. In this context, it will be appropriate to quote a few lines from *Democracy in America* by Alexis de Tocqueville:

> "If I were asked … to what the singular prosperity and growing strength of that people [Americans] ought mainly to be attributed, I should reply: To the superiority of their women."

x x x x x

32. A cosmetic awareness campaign would never subserve the purpose. The authorities of the Government, the non-governmental organisations and other volunteers are required to remember that there has to be awareness camps which are really effective. The people involved with the same must take it up as a service, a crusade. They must understand and accept that it is an art as well as a science and not simple arithmetic. It cannot take the colour of a routine speech. The awareness camps should not be founded on the theory of Euclidian geometry. It must engulf the

concept of social vigilance with an analytical mind and radiate into the marrows of the society. If awareness campaigns are not appositely conducted, the needed guidance for the people would be without meaning and things shall fall apart and everyone would try to take shelter in cynical escapism.

33. It is difficult to precisely state how an awareness camp is to be conducted. It will depend upon what kind and strata of people are being addressed to. The persons involved in such awareness campaign are required to equip themselves with constitutional concepts, culture, philosophy, religion, scriptural commands and injunctions, the mandate of the law as engrafted under the Act and above all the development of modern science. It needs no special emphasis to state that in awareness camps while the deterrent facets of law are required to be accentuated upon, simultaneously the desirability of law to be followed with spiritual obeisance, regard being had to the purpose of the Act, has to be stressed upon. The seemly synchronisation shall bring the required effect. That apart, documentary films can be shown to highlight the need; and instil the idea in the mind of the public at large, for when the mind becomes strong, mountains do melt.

34. The people involved in the awareness campaigns should have boldness and courage. There should not be any iota of confusion or perplexity in their thought or action. They should treat it as a problem and think that a problem has to be understood in a proper manner to afford a solution. They should bear in mind that they are required to change the mindset of the people, the grammar of the society and unacceptable beliefs inherent in the populace."

10. As directed in the judgment, the matter was listed and certain clarifications were sought for by the Union of India with regard to the directions vide direction Nos. 2, 3, 4 and 6 pointing out that the authorities mentioned in direction No. 2 should also include appropriate authority under Section 17 and Section 17A of the Act. With regard to direction No. 6, it was submitted that instead of Forms A, E and H, Forms A, D, F, G & H be substituted. The said prayers were allowed and the States were directed to file their respective status report.

11. On 16.9.2014 the Court took note of the directions already issued and proceeded to deal with I.A. No. 11 of 2013 and recorded the submission of Mr. Sanjay Parikh, learned counsel that the Union of India has to animate itself in an appropriate manner to see that the sex ratio is maintained and does not reduce further. It was also urged by him that the Central Supervision Committee which is required to meet to take stock of the situation and the National Monitoring Committee who is required to monitor the activities, had failed in their duties.

12. Mr. Parikh had also drawn the attention of the Court to the proviso to Section 4(3) of the Act which reads as follows:-

> "4. Regulation of pre-natal diagnostic techniques.-- On and from the commencement of this Act,-- (1) … (2) … (3) …
>
> Provided that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of the provisions of section 5 and section 6 unless contrary is proved by the person conducting such ultrasonography."

13. It was propounded by him that the concerned authorities have not acted in accordance with the aforesaid provision in all seriousness as a result of which the nation has faced the disaster of female foeticide. On that day, Mr. Colin Gonsalves, learned senior counsel appearing for the writ petitioner had drawn our attention to the affidavit filed by the petitioner contending, *inter alia*, that the sex ratio in most of the States had decreased and in certain States, there had been a minor increase, but the same is not likely to subserve the aims and objects of the Act. After referring to the history of this litigation which has been

continuing in this Court since long, he had submitted that certain directions are required to be issued.

14. The Union of India was directed to file an affidavit of the Additional Secretary of Health and/or any other concerned Additional Secretary clearly stating what steps had been taken and on the basis of the steps taken, what results have been achieved. It was also directed that all the States shall file their responses through the concerned Health Secretaries. The direction further contained that the affidavits shall be comprehensive and must reflect sincerity and responsibility.

15. On 25.11.2014 the Court noted that affidavits by certain States had been filed and certain States, namely, Assam, Arunachal Pradesh, Bihar, Goa, Gujarat, Kerala, Madhya Pradesh, Meghalaya, Mizoram, Odisha, Tripura, and UT of Daman and Nagar Haveli and Puducherry had not filed the affidavits. Two weeks time was granted to file the necessary affidavits. At that juncture, it was thought appropriate to advert to the States by dividing them into certain clusters. It was decided to deal with the situation pertaining to the States of Uttar Pradesh, Haryana and NCT

of Delhi first. The affidavit filed by the State of Uttar Pradesh was considered and in that context it was observed that the census conducted in 2011 cannot be the guideline for the purposes of PC-PNDT Act. It was felt that a different methodology was required to be adopted by the State. Paragraph 28 of the affidavit, which is of significance, is extracted below:-

> "28. That it is pertinent to mention herein that according to "ANNUAL HEALTH SURVEY (AHS)" for the year 2010-11, 2011-12 and 2012-13, improvement has been revealed in the State in respect of Sex Ratio At Birth, Sex Ratio of Child (0 to 04 years age) and Sex Ratio in all age group, which is clear with the table given below:

Year of Annual Health Survey	Sex Ratio (at birth)	Sex Ratio (0 to 4 years of	Sex Ratio (In all ages)
2010-11	904	913	943
2011-12	908	914	944
2012-13	921	919	946

It is necessary to mention here that on a query being made by the Court, learned counsel for the State was not in a position to explain on what basis the said figures had been arrived at, for the same was not reflectible from the assertions made in the affidavit.

16. As far as the State of Haryana is concerned, the chart given in paragraph 15 of the affidavit indicated district-wise and month-wise sex ratio of births during the year 2014. It is as follows:-

"District wise and month wise Sex Ratio at Birth during year 2014 in Haryana State as per CRS (Prov)							
Sr. No	District	Up to Jan.14	Up to Feb.14	Up to Mar 14	Up to April 14	Up to May 14	Up to June 14
1	Ambala	1012	993	959	939	913	910
2	Bhiwani	824	812	843	848	846	832
3	Faridabad	929	892	889	884	890	890
4	Fatehabad	859	898	890	888	886	874
5	Gurgaon	829	856	851	854	855	839
6	Hissar	892	872	883	878	885	880
7	Jhajjar	797	793	793	801	800	811
8	Jind	886	876	878	911	915	899
9	Kaithal	953	921	920	928	927	918
10	Karnal	911	899	888	881	889	894
11	Kurukshetra	956	904	900	892	890	888
12	Mewat	920	942	932	923	920	919
13	Mohindergarh	777	776	797	786	782	770
14	Palwal	867	871	871	871	876	875
15	Panchkula	853	837	860	914	902	914
16	Panpat	924	931	915	904	903	895
17	Rewari	856	850	849	822	816	806
18	Rohtak	894	884	865	863	859	889
19	Sirsa	897	872	879	885	892	886
20	Sonepat	859	884	850	838	834	835
21	Yamuna naga	903	940	916	897	894	869
	Haryana State	889	884	881	878	878	874"

Nothing had been filed stating as to how the aforesaid figures had been reached except making a statement that the figures were arrived at on the basis of entry in certain registers.

17. On a perusal of the affidavit by the NCT of Delhi, it was noted that in paragraph 5, it had been stated, thus:-

> "5. It is submitted that Sex Ratio at Birth in Delhi, which is a reliable indicator of violations under the PC & PNDT Act, has improved by 9 points in 2013 over the previous year. The data available from Civil Registration System indicates that Sex Ratio at Birth was 809 females per 1000 males in the year 2001 and it is currently at 895 in 2013 Annexure R-I."

18. At that stage, the Court felt the need for verification of the documents that formed the basis on which these figures had been reached. It was also clarified that the figures that had been put forth did not show much indication of improvement but it was necessary to verify whether the figures that had been set forth was correct or not. The purpose was to find out whether there was degradation of sex ratio or stagnation or any steps had really been taken by the concerned States to improve/enhance the sex ratio or not; and accordingly it was directed that a meeting be held

under the auspices of National Inspection and Monitoring Committee wherein the Additional Secretary who had filed the affidavit for the Union of India and two other Joint Secretaries of the Ministry of Health and Family Welfare shall remain present. The deponents who had filed the affidavits before this Court on behalf of the State of Uttar Pradesh and NCT of Delhi were directed to remain present. The Director General, Health Services, State of Haryana and the Principal Secretary along with the Special Secretary, State of Uttar Pradesh were also directed to remain present in the meeting and to produce the relevant registers/records before the said Committee on the date fixed. Mr. Gonsalves, learned senior counsel for the petitioner and Mr. Parikh, learned counsel for the impleaded respondent(s) were allowed to be present. The report was required to be filed before this Court by 10.12.2014. It was further directed that apart from the sex-ratio, the aforesaid three States shall also bring records with regard to the prosecutions levied by the State yearwise and the stage of the prosecution.

19. Pursuant to order dated 25.11.2014, the Committee verified the data submitted by three States, namely, Uttar

Pradesh, Haryana and Delhi. As far as the State of Uttar Pradesh was concerned, on a perusal of the report, it transpired that the figures that were submitted by the State of Uttar Pradesh had been verified by the Committee and found to be correct. On a perusal of the report along with the documents that had been annexed to, it was noticed that certain cases were pending for trial before the trial Court. Regard being had to the fact that they had been instituted long back, a direction was issued to the effect that the proceedings that were pending before for trial and where there was no stay order of the High Court or this Court, the same shall be taken up in quite promptitude and be disposed of within a period of three months commencing 20th January, 2015. Be it stated certain other directions were issued to be complied with by the State of Uttar Pradesh.

20. At a subsequent stage, the data furnished by the States, i.e., Bihar, Himachal Pradesh, Rajasthan and Tamil Nadu were verified. On 15.4.2015 this Court's attention was drawn to the sex ratio in Delhi which had been verified

by the Monitoring Committee as per the population census.

The said sex ratio relates to 2011 which reads as follows:-

> "Sex Ratio as per Population Census The universal sex ratio of Delhi as per population census for all age groups taken together was 821 females per 1000 males in 2001 and it has become 866 females per 1000 males as per provisional data of census – 2011. Children sex ratio (0-6) of Delhi went down marginally from 868 (as per census 2001) to 866 (as per census 2011). As can be seen from statement 1.3, at both points of the figures of Delhi were below than All India level. The district-wise scenario for the children of 0-6 years varies in different districts.
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> Statement 1.3: Sex ratio of Delhi/All India as per population Census Data

Sl. No	Item	Census Year	
A	District wise sex ratio (Children of 0-6 years)	2001	2011
	South	888	878
	South West	846	836
	North West	857	863
	North	886	872
	Central	903	902
	New Delhi	898	884
	East	865	870
	North East	875	875
	West	859	867
	Delhi		
	Children of 0-6 years	868	866
	All ages	821	866
	All India		
	Children of 0 -6 years	927	914
	All ages	933	940

> Source: Population census – 2011"

21. Our attention was also drawn to the document which is 'Monthly monitoring of the sex ratio of institutional birth'. It stated thus:-

> "The data is collected on monthly basis from 50 major hospitals which accounts for 50.87% of total registered births in the year 2013 in Delhi. This helps to review the sex ratio at the highest level in the shortest possible time without waiting for the yearly indicators. The sex ratio of institutional births on the basis of these 50 hospitals was also 895 in the year 2013. Efforts will be made to increase the coverage of health institutions under the monthly monitoring system to make this exercise meaningful and truly representative of the ground reality."

22. Learned counsel appearing for NCT of Delhi, had drawn our attention to the affidavit filed by the Union of India and especially to Annexure 'E'. Annexure 'E' is only report on registration of births and deaths in Delhi in 2013. At page 114, the profile of birth Registration had been mentioned under the caption 'The birth registration in civil registration system'. It is as follows:-

> "During 2013, a total of 370000 birth events were registered by all the local bodies taken together. Out of them, 1.95 lakhs (52.76%) were male and 1.75 lakhs (47.24%) were female. Statement 3.1: Total Number of Births registered under CRS sex-wise.

Year	Total Births	Male	Female	Sex Ratio
2001	296287	163816 (55.29)	132471 (44.71)	809
2002	300659	164184 (54.61)	136475 (45.39)	831
2003	301165	165173 (54.84)	135992 (45.16)	823
2004	305974	167849 (54.86)	138125 (45.11)	823
2005	324336	178031 (54.89)	146305 (45.11)	822
2006	322750	176242 (54.69)	146508 (45,39)	831
2007	322044	174289 (54.12)	147755 (45.88)	848
2008	333908	166583 (49.89)	167325 (50.11)	1004
2009	354482	185131 (52.22)	169351 (47.78)	915
2010	359463	189122 (52.61)	170341 (47.39)	901
2011	353759	186870 (52.82)	166889 (47.18)	893
2012	360473	191129 (53.02)	169344 (46.98)	886
2013	370000	195226 (52.76)	174774 (47.24)	895”

23. The data furnished by the NCT of Delhi was contested on the ground that it was collected from 50 major hospitals. The Court noticed that there had really been no improvement with regard to the sex ratio. The Court took note of the submissions of Mr. Gonsalves, learned senior counsel for the petitioner and Mr. Parikh, learned counsel for the impleaded respondent(s) and observed that under Section 16(2)(f)(ii) and (iii) there should be eminent women

activists from non-governmental oraganisations and eminent gynaecologists and obstetricians or experts of *stri-roga* or *prasuti tantra* to be the members and thought it apt to state that there can be eminent women activists from non-governmental organizations, eminent gynaecologists and obstetricians or experts of *stri-roga* or *prasuti tantra* and eminent radiologists or sonologists but care has to be taken that they do not have conflict of interest.

24. On 15.09.2015, the Court noted the submission of Ms. Anitha Shenoy, learned counsel appearing for Dr. Sabu Mathew George, the newly impleaded party, that the appropriate authorities are not following the mandate enshrined under Rule 18A of the Rules. Keeping in view the language employed in the said Rule, the Court directed that all the appropriate authorities including the State, districts and sub-districts notified under the Act shall submit quarterly progress report to the Government of India through the State Government and maintain Form H for keeping the information of all registrations readily available. The Court further directed that the States shall file the compliance report pertaining to sub-rule (6) of Rule 18A of

the Rules and also directed counsel for the Union of India to apprise the Court about the information received from the various appropriate authorities.

25. On 17.11.2015 when the matter was taken up, the Court adverted to the fact that the State of Odisha, as directed, had provided the Committee relevant documents, especially the documents which are required for eradicating the deficiencies pointed out by the Committee. Be it noted, the Committee had earlier pointed out certain deficiencies. The State had filed the documents in pursuance of the order of the Court and the Committee had filed report pertaining to the State of Odisha. Paragraph 4 of the report reads as follows:-

> "4. The State of Odisha had cited the data on Sex Ratio at Birth from the Civil Registration of births of State. State Provided the relevant data and C.D. M.O, Odisha. There are 314 rural registration units & 100 urban registration units I 30 districts in Odisha State. All the data is based on the records of civil registration system. The Sex Ratio at Birth (SRB) data for the year 2013 submitted in the affidavit is 886 whereas as per the records submitted by the State data for the same period is 890. The representatives of the State clarified that in the affidavit, the figures were provisional."

26. Mr. Gonsalves, learned senior counsel had also filed a chart containing 'District-wise Sex Ratio at Birth of Odisha State' commencing from the year 2010 to 2014. The said chart is reproduced below:-

"District wise sex ratio at birth of Odisha State

Sl.No	Name of the District	2010	2011	2012	2013	2014
1	2	3	4	5	6	7
1	Angul	894	900	879	890	904
2	Balasore	923	891	912	870	870
3	Argarh	923	889	913	891	913
4	Bhadrak	923	891	876	883	875
5	Bolangir	945	930	933	950	939
6	Boudh	983	957	936	934	918
7	Cuttack	860	874	860	854	843
8	Deogarh	896	954	958	954	938
9	Dhenkanal	856	833	850	845	849
10	Gajapati	875	930	927	890	892
11	Ganjam	902	880	867	813	794
12	Jagatsinghpur	912	905	842	777	852
13	Jajpur	863	876	828	824	823
14	Jharsuguda	859	902	882	908	878
15	Kalahandi	888	935	968	989	942
16	Kandhamal	912	943	950	962	940
17	Kendrapara	881	836	828	734	705
18	Keonjhar	934	923	950	965	930
19	Khurda	892	876	884	885	842
20	Koraput	935	943	960	945	942
21	Malkangiri	948	947	993	942	935
22	Mayurbhanj	955	934	936	931	933
23	Nawarangpur	962	932	936	979	965
24	Nayagarh	874	859	774	844	811
25	Nuapada	945	956	955	909	1055
26	Puri	933	888	874	873	854
27	Rayagada	955	954	939	931	945
28	Sambalpur	906	918	908	891	903
29	Subarnapur	940	934	946	939	965
30	Sundargarh	911	892	865	897	906
	Odisha	911	902	896	886	889"

Learned counsel submitted that when the sex ratio reduces below 900, there is a signal of a social disaster. He had pointed out that there were many districts where it had fallen below 900 and drawn the attention of the Court to two districts, namely, Kendrapara and Ganjam to highlight that the sex ratio had gone down to 705 and 794 in 2014. Be it stated, the two districts were only referred to highlight how the sex ratio had fallen in the year 2014 than what it was in 2010.

27. We have adumbrated the history of the litigation, the directions issued by this Court from time to time and adverted to how this Court has appreciated the impact of sex ratio on a civilized society having regard to the legislative intendment under the Act, the suggestions given by the learned counsel for the petitioner, the verification done by the Monitoring Committee, and the crisis the country is likely to face if the obtaining situation is allowed to prevail. As is manifest, this Court had issued directions from 2001 onwards in different writ petitions and in the instant writ petition, as noticed earlier, number of directions

were issued and, thereafter, certain clarifications were made. The narration shows the concern.

28. It needs no special emphasis that a female child is entitled to enjoy equal right that a male child is allowed to have. The constitutional identity of a female child cannot be mortgaged to any kind of social or other concept that has developed or is thought of. It does not allow any room for any kind of compromise. It only permits affirmative steps that are constitutionally postulated. Be it clearly stated that when rights are conferred by the Constitution, it has to be understood that such rights are recognised regard being had to their naturalness and universalism. No one, let it be repeated, no one, endows any right to a female child or, for that matter, to a woman. The question of any kind of condescension or patronization does not arise.

29. When a female foetus is destroyed through artificial means which is legally impermissible, the dignity of life of a woman to be born is extinguished. It corrodes the human values. The Legislature has brought a complete code and it subserves the constitutional purpose. We may briefly refer to the scheme of the Act and the Rules framed thereunder.

Section 2 of the Act is the dictionary clause and it defines "foetus", "Genetic Counselling Centre", "Genetic Clinic", "Genetic Laboratory", "pre-natal diagnostic procedures", "pre-natal diagnostic techniques", "pre-natal diagnostic test", "sex selection", "sonologist or imaging specialist". Section 3 provides for Regulation of Genetic Counselling Centers, Genetic Laboratories and Genetic Clinics. Section 3A imposes prohibition of sex-selection. Section 3B prohibits the sale of ultrasound machine, etc., to persons, laboratories, clinics, etc., not registered under the Act. Section 4 regulates pre-natal diagnostic techniques. Section 5 stipulates written consent of pregnant woman and prohibition of communicating the sex of foetus. Section 6 prohibits determination of sex. Chapter IV of the Act deals with the Central Supervisory Board. Sections 7 – 16A deal with the constitution of the Board, meetings of the Board, functions of the Board, which includes reviewing and monitoring implementation of the Act and Rules made thereunder. Section 16A commands the States and Union Territories to have a Board to be known as the State Supervisory Board or the Union Territory Supervisory

Board, as the case may be, to carry out the functions enumerated therein. Chapter V provides for the Appropriate Authority and Advisory Committee. Sub-section (4) of Section 17 deals with the powers of the Appropriate Authority. The said provision being significant is extracted hereunder:-

> "(4) the Appropriate Authority shall have the following functions, namely –
> (a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;
> (b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;
> (c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action;
> (d)to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration;
> (e) to take appropriate legal action against the use of any sex selection technique by any person at any place, *suo motu* or brought to its notice and also to initiate independent investigations in such matter;
> (f) to create public awareness against the practice of sex selection or pre-natal determination of sex;
> (g) to supervise the implementation of the provisions of the Act and rules;
> (h) to recommend to the Board and State Boards modifications required in the rules in accordance with changes in technology or social conditions;
> (i) to take action on the recommendations of the Advisory Committee made after investigation of

> complaint for suspension or cancellation of registration."

30. Section 17A enumerates the powers of the Appropriate Authorities. The said provision reads as follows:-

> "17A. Powers of Appropriate Authorities.- The Appropriate Authority shall have the powers in respect of the following maters, namely:-
> (a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
> (b) production of any document or material object relating to clause (a);
> (c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
> (d) any other matter which may be prescribed."

31. Section 18 deals with the registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics. Sections 19 and 20 provide for certificate of registration and cancellation or suspension of registration. Chapter VII deals with offences and penalties. Section 22 stipulates prohibition of advertisement relating to pre-conception and pre-natal determination of sex and punishment for contravention and Section 23 deals with offences and penalties. Section 24 which has been brought into the Act by way of an amendment with effect from

14.02.2003 states with regard to presumption in the case of conduct of pre-natal diagnostic techniques. Section 26 provides for offences by companies. Section 28 provides that no court shall take cognizance of an offence under the Act except on a complaint made by the Appropriate Authority concerned, or any officer authorized in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or a person who has given notice of not less than fifteen days in the manner prescribed. Section 29 occurring in Chapter VIII which deals with miscellaneous matters provides for maintenance of records. Section 30 empowers the appropriate authority in respect of search and seizure of records. The rule framed under Section 32 of the Act is not comprehensive. Various Forms have been provided to meet the requirement by the Rules. On a perusal of the Rules and the Forms, it is clear as crystal that attention has been given to every detail.

32. Having stated about the scheme of the Act and the purpose of the various provisions and also the Rules framed under the Act, the dropping of sex ratio still remains a social affliction and a disease.

33. Keeping in view the deliberations made from time to time and regard being had to the purpose of the Act and the far reaching impact of the problem, we think it appropriate to issue the following directions in addition to the directions issued in the earlier order:-

(a) All the States and the Union Territories in India shall maintain a centralized database of civil registration records from all registration units so that information can be made available from the website regarding the number of boys and girls being born.

(b) The information that shall be displayed on the website shall contain the birth information for each District, Municipality, Corporation or Gram Panchayat so that a visual comparison of boys and girls born can be immediately seen.

(c) The statutory authorities if not constituted as envisaged under the Act shall be constituted forthwith and the competent authorities shall take steps for the reconstitution of the statutory bodies so that they can become immediately functional after expiry of the term. That apart, they shall meet regularly so that the provisions of the Act can be

implemented in reality and the effectiveness of the legislation is felt and realized in the society.

(d) The provisions contained in Sections 22 and 23 shall be strictly adhered to. Section 23(2) shall be duly complied with and it shall be reported by the authorities so that the State Medical Council takes necessary action after the intimation is given under the said provision. The Appropriate Authorities who have been appointed under Sections 17(1) and 17(2) shall be imparted periodical training to carry out the functions as required under various provisions of the Act.

(e) If there has been violation of any of the provisions of the Act or the Rules, proper action has to be taken by the authorities under the Act so that the legally inapposite acts are immediately curbed.

(f) The Courts which deal with the complaints under the Act shall be fast tracked and the concerned High Courts shall issue appropriate directions in that regard.

(g) The judicial officers who are to deal with these cases under the Act shall be periodically imparted training in the Judicial Academies or Training Institutes, as the case may

be, so that they can be sensitive and develop the requisite sensitivity as projected in the objects and reasons of the Act and its various provisions and in view of the need of the society.

(h) The Director of Prosecution or, if the said post is not there, the Legal Remembrancer or the Law Secretary shall take stock of things with regard to the lodging of prosecution so that the purpose of the Act is subserved.

(i) The Courts that deal with the complaints under the Act shall deal with the matters in promptitude and submit the quarterly report to the High Courts through the concerned Sessions and District Judge.

(j) The learned Chief Justices of each of the High Courts in the country are requested to constitute a Committee of three Judges that can periodically oversee the progress of the cases.

(k) The awareness campaigns with regard to the provisions of the Act as well as the social awareness shall be undertaken as per the direction No 9.8 in the order dated March 4, 2013 passed in ***Voluntary Health Association of Punjab*** (supra).

(l) The State Legal Services Authorities of the States shall give emphasis on this campaign during the spread of legal aid and involve the para-legal volunteers.

(m) The Union of India and the States shall see to it that appropriate directions are issued to the authorities of All India Radio and Doordarshan functioning in various States to give wide publicity pertaining to the saving of the girl child and the grave dangers the society shall face because of female foeticide.

(n) All the appropriate authorities including the States and districts notified under the Act shall submit quarterly progress report to the Government of India through the State Government and maintain Form H for keeping the information of all registrations readily available as per sub-rule 6 of Rule 18A of the Rules.

(o) The States and Union Territories shall implement the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014 forthwith considering that the training provided therein is imperative for realising the objects and purpose of this Act.

(p) As the Union of India and some States framed incentive schemes for the girl child, the States that have not framed such schemes, may introduce such schemes.

34. Before parting with the case, let it be stated with certitude and without allowing any room for any kind of equivocation or ambiguity, the perception of any individual or group or organization or system treating a woman with inequity, indignity, inequality or any kind of discrimination is constitutionally impermissible. The historical perception has to be given a prompt burial. Female foeticide is conceived by the society that definitely includes the parents because of unethical perception of life and nonchalant attitude towards law. The society that treats man and woman with equal dignity shows the reflections of a progressive and civilized society. To think that a woman should think what a man or a society wants her to think is tantamounts to slaughtering her choice, and definitely a humiliating act. When freedom of free choice is allowed within constitutional and statutory parameters, others cannot determine the norms as that would amount to acting in derogation of law. Decrease in the sex ratio is a sign of

colossal calamity and it cannot be allowed to happen. Concrete steps have to be taken to increase the same so that invited social disasters do not befall on the society. The present generation is expected to be responsible to the posterity and not to take such steps to sterilize the birth rate in violation of law. The societal perception has to be metamorphosed having respect to legal postulates.

35. Now, we shall advert to the prayers in Writ Petition (Civil) No. 575 of 2014. The writ petition has been filed by Indian Medical Association (IMA). It is contended that Sections 3-A, 4, 5, 6, 7, 16, 17, 20, 23, 25, 27 and 30 of the Act and Rules 9(4), 10 & Form "F" (including foot-note), which being the subject matter of concern in the instant writ petition, are being misused and wrongly interpreted by the concerned authorities thereby causing undue harassment to the medical professionals all over the country under the guise of the 'so-called implementation'. It is also urged that, implementation of steps and scrutiny of records was started at large scale all over the country and lot of anomalies were found in records maintained by doctors throughout the country. It is however pertinent to mention

here that the majority of the defaults were of technical nature as they were merely minor and clerical errors committed occasionally and inadvertently in the filing of Form “F”. It is also put forth that the Act does not classify the offences and owing to the liberal and vague terminology used in the Act, it is thrown open for misuse by the concerned implementing authorities and has resulted into taking of cognizance of non-bailable (punishable by three years) offences against doctors even in the cases of clerical errors, for instance non-mentioning of N.A. (Not Applicable) or leaving of any column in the concerned Form “F” as blank. It is further submitted that the said unfettered powers in the hands of implementing authority have resulted into turning of this welfare legislation into a draconian novel way of encouraging demands for bribery as well as there is no prior independent investigation as mandated under Section 17 of the Act by these Authorities. It is also set forth that the Act states merely that any contravention with any of the provisions of the Act would be an offence punishable under Section 23(1) of the said Act and further all offences under the Act have been made

non-bailable and non-compoundable and the misuse of the same can only be taken care of by ensuring that the Appropriate Authority applies its mind to the fact of each case/complaint and only on satisfaction of a prima facie case, a complaint be filed rather than launching prosecution mechanically in each case. With these averments, it has been prayed for framing appropriate guidelines and safeguard parameters, providing for classification of offences as well, so as to prohibit the misuse of the PCPNDT Act during implementation and to read down this Sections 6, 23, 27 of PCPNDT Act. That apart, it has been prayed to add certain provisos/exceptions to Sections 7, 17, 23 and Rule 9 of the Rules.

36. In our considered opinion, whenever there is an abuse of the process of the law, the individual can always avail the legal remedy. As we find, neither the validity of the Act nor the Rules has been specifically assailed in the writ petition. What has been prayed is to read out certain provisions and to add certain exceptions. We are of the convinced view that the averments of the present nature with such prayers

cannot be entertained and, accordingly, we decline to interfere.

37. In the result, Writ Petition (Civil) No. 349 of 2006 stands disposed of in terms of the directions issued by us and Writ Petition (Civil) No. 575 of 2014 stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[Dipak Misra]

..... J.
[Shiva Kirti Singh]

New Delhi;
November 8, 2016