DMC/DC/F.14/Comp.2129/2/2021/ 18th August, 2021

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined an intimation F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi, Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031, as per which Dr. Abhilasha Garg of Abhilasha Maternity & Medical Centre, A-125, Pocket B, Mayur Vihar, Phase-2, Delhi-110091 has been convicted by the Court in CC No.897/10/13 and 896/10/13, consequent upon her pleading guilty under the PC & PNDT Act, 1994.

The Order of the Disciplinary Committee dated 20th July, 2021 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined an intimation F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi , Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031 as per which Dr. Abhilasha Garg of Abhilasha Maternity & Medical Centre, A-125, Pocket B, Mayur Vihar, Phase-2, Delhi-110091 has been convicted by the Court in CC No.897/10/13 and 896/10/13 , consequent upon her pleading guilty under the PC & PNDT Act, 1994.

The Disciplinary Committee perused the intimation F-8(14)/PNDT/Complaints/ 2016/DHS/ED/Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer (PNDT), East Delhi and Judgment dated 19th October, 2015 in CC No.897/10/13 and judgment dated 7th November, 2015 in C.C. 896/10/13, written statement of Dr. Abhilasha Garg and other documents on record.

Dr. Abhilasha Garg presented herself before the Disciplinary Committee and was heard in person.

It is noted that as per the intimation F-8(14)/PNDT/Complaints/2016/DHS/ED/ Convictions/88 dated 29th May, 2017 from Dr. Rachna Gupta, District Nodal Officer(PNDT), East Delhi , Office of the District Appropriate Authority (PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031 it is stated that per the Section 23(2) of Pre Conception & Pre Natal Diagnostics Techniques Act(Prohibition of Sex Selection 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”.* Accordingly, this is for the kind consideration of the Delhi Medical Council that recently judgement has been delivered in the following follow case in East District :

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Case Number & Year** | **Details of Convict/s** | **Violations (provisions)** | **PNDT Regn. No.** | **Date of Judgment & details** | **Judgement Delivered by** |
| Case CC No. 46 Case Filing date 16/03/2010 | Dr. Abhilasha Garg of Abhilasha Maternity & Medical Centre, A-125, Pocket B, Mayur Vihar, Ph-2, Delhi-110091 | Alleged female foeticide based on sting operation CD & complaint by Beti Bachao Samiti & other observations during subsequent inspection (violation of Section 6(c) & 19(4) of the PNDT Act, Rule 11,13,17(2) & 18 (5) of PNDT Rules, Section 3 (2(b(i))) of the MTP Act & Rule 5(1) & 5 (7) of MTP Act) | 898  DMC Regn. No. 9453 | Date of judgement -19/10/2015  1. The accused pleaded guilty & admonished for offence u/s 25 of PNDT Act & u/s 3 of Probation of Offenders Act.  2. Cost of Rs.500/- was imposed as cost of proceedings u/s 5 of probation of offenders Act.  3. Benefit u/s 12 probation of offenders Act granted.  4. Surety of accused was discharged.  5. Endorsement, if any were cancelled.  6. Asked to release the documents, if any to owners. | Sh. Saurabh Pratap Singh Laler, Court no. 27 of KKD Court |

Copies of the final judgements, in the above mentioned case has been submitted. The Delhi Medical Council is requested to initiate action as per the Section 23(2) of PC & PNDT Act, as mentioned above and proposed by the East District PNDT Advisory Committee, as mentioned above.

Dr. Abhilasha Garg in her written statement averred that she would like to submit that the Council should browse through the fine print of the judgements passed by the Hon’ble High Court of Delhi in W.P.(c) No.182 of 2010 and CC No. 897/10/2013 by the ACCM(E) KKD/19/10/2015, in this matter. The sting mentioned in the complaint done against her to the Delhi Medical Council by the Appropriate Authority was the work of an extortionist NGO whose Secretary was arrested by the Delhi Police in a criminal case by another doctor from Ashok Vihar, Delhi. Quoting from the para 32 of the Hon’ble High Court judgement “the contents of the sting operation recorded by the Beti Bachao Samiti, even if accepted to be corrected cannot attract any violation of the section 6(C) of the PNDT act”. The complaint against her before the Chief Metropolitan Magistrate, Karkarduma Court was for offences under Section 25 of PNDT Act. These so called offences were : a) non display of the PNDT certificate. b) Non-availability of PNDT Act in the clinic at the time of the surprise inspection. c) Unhygienic operation theatre in his absence in the clinic. As she was out of station and the clinic was closed, temporarily during the inappropriate inspection of his premises which was under renovation (facts already accepted by the Hon’ble High Court of Delhi), these minor mistakes occurred inadvertently. She has pleaded guilty to only these three mistakes and nothing else in good faith and that too on the advice of the Chief Metropolitan Magistrate who stated to her that either-plead guilty to these or face a full-fledged legal proceeding. She preferred the former because of his family commitments and her own health problems. The judgements by the court of the CMM, Karkarduma is just an admonishment, as she has not done anything illegal. The court has only asked her to deposit a sum of Rs.500/- as cost of the proceedings and no other penalties, as mentioned in the Section 25 of the PNDT Act. The Appropriate Authority may also be advised not to split hairs, otherwise appropriate legal remedy will be taken by her.

The Disciplinary Committee notes that Dr. Abhilasha Garg has been convicted by the Court of ACMM (E)/KKD in CC No.897/10/2013 PS : Pandav Nagar vide Order dated 19th October, 2015 by observing that accused is primarily relying upon judgement tilted Abhilasha Garg and Anr. Vs. Appropriate Authority (PNDT Act) DC (East) & Ors.2010 Law Suit (Del) 3407 for discharge. However, Para 41 of the said judgment clearly states that the said judgment only deals with action taken u/s 20 of the Act and not with the criminal proceedings which would be decided by appropriate court. The said judgment does not absolve the accused of the allegation, it merely states that extreme penalty of cancellation of registration was not proper in the facts of the case. The said judgment thus can be a ground for seeking lesser sentence or probation, but not for discharge of the said accused. During inspection certain minor violation of rules was detected by the inspecting team, hence, prima facie u/s 25 PNDT Act has been made out against the accused and notice is framed accordingly. Notice is explained to accused in vernacular language, to which she pleaded guilty and prays for benefit under Probation of Offenders Act in view of judgment titled Abhilasha Garg and Anr. Vs. Appropriate Authority (PNDT) DC(East) & Ors. In view of plead guilty of accused, accused is admonished for offence alleged u/s 25 PNDT Act and u/s 3 of probation of offenders Act Cost of Rs.500/- imposed upon the accused as cost of proceedings u/s 5 probation of Offenders Act. Cost paid. Benefit u/s 12 of Probation of Offenders Act granted.

In view of the fact that even though Dr. Abhilasha Garg has been convicted and admonished for offence under Section 25 of PNDT Act and under Section 3 of Probation of Offenders Act cost of Rs.500/- has been imposed upon her; the Learned ACMM (E), KKD has released her under Section 12 of Probation of Offenders Act. In view of the same, the Disciplinary Committee recommends that a warning be issued to Dr. Abhilasha Garg (Delhi Medical Council Registration No.9453) with a direction that she should strictly adhere to the statutory provisions in letter and spirit, in her medical practice.

Matter stands disposed.

Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Anil Kumar Yadav)

Chairman, Eminent Publicman,

Disciplinary Committee Member,

Disciplinary Committee

Sd/: Sd/:

(Dr. G.S. Grewal) (Dr. Dinesh Kumar Negi)

Delhi Medical Association, Expert Member,

Member, Disciplinary Committee

Disciplinary Committee

The Order of the Disciplinary Committee dated 20th July, 2021 was confirmed by the Delhi Medical Council in its meeting held on 23rd July, 2021.

The Council also confirmed the punishment of warning awarded by the Disciplinary Committee to Dr. Abhilasha Garg (Delhi Medical Council Registration No.9453).

By the Order & in the name of

Delhi Medical Council

(Dr. Girish Tyagi)

Secretary

Copy to :-

1. Dr. Abhilasha Garg, Abhilasha Maternity & Medical Centre, A-125, Pocket B, Mayur Vihar, Phase-2, Delhi-110091.
2. District Nodal Officer (PNDT), East Delhi, Office of the District Appropriate Authority(PNDT) District Magistrate (East), Shastri Nagar, L.M. Bundh, Delhi-110031-w.r.t. letter No. F-8(14)/PNDT/Complaints/2016/ DHS/ED/ Convictions/88 dated 29th May, 2017-**for information**.
3. National Medical Commission, Pocket-14, Phase-1, Sector-8, Dwarka, New Delhi-110077(***Dr. Abhilasha Garg is also registered with the Medical Council of India under Registration No.3410 dated 01.03.1983)*** -**for information & necessary action.**

(Dr. Girish Tyagi)

Secretary