The Delhi Artificial Insemination (Human) Act, 1995

Act 12 of 1996

Keyword(s):
Donor, Government Hospital, Semen, Semen Bank, Doctor

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DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS
NOTIFICATION

Delhi, the 26th December, 1996

No. F. 13/12/96/L.A./575.—The following Act of the Legislative Assembly received the assent of the President of India on 30th November, 1996 and is hereby published for general information:—

THE DELHI ARTIFICIAL INSEMINATION (HUMAN) ACT, 1995 (DELHI ACT NO. 12 OF 1996)

“As passed by the Legislative Assembly of the National Capital Territory of Delhi

AN ACT

to provide for the regulation of donation, sale and supply of human semen and ovum for the purpose of artificial insemination and for matters connected therewith or incidental thereto.
Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-sixth Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Delhi Artificial Insemination (Human) Act, 1993.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force on the date thereof, as the Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires—

(a) "Delhi" means the National Capital Territory of Delhi;

(b) "donor" means the donor of semen, in the case of a male and of ovum, in the case of a female;

(c) "Government" means the Government of the National Capital Territory of Delhi;

(d) "Government Hospital" means any hospital established or maintained by the Government, or the Municipal Corporation of Delhi, or the New Delhi Municipal Council, performing the function of artificial insemination and includes any other hospital which may be declared by the Government, by notification in the official Gazette, to be a Government hospital for the purposes of this Act;

(e) "Hospital" means any premises including a maternity home, nursing home, hospital or any other place not established or maintained by Government funds, used or intended to be used for storage, supply, or artificial insemination of semen;

(f) "Qualified Medical Practitioner" means a medical practitioner registered in any State or Union Territory in India under a law for the registration of medical practitioners;

(g) "Registration" means the registration under section 3 of this Act and the expression "registered" shall be construed accordingly.

(h) "Semen" wherever it occurs in this Act, means the semen or ovum of male and female human being, as the case may be;

(i) "Semen Bank" means any premises used or intended to be used for storage, sale, donation, or supply of semen;

(j) "Supervisory Authority" means the Director of Health services, Government of National Capital Territory of Delhi.

3. Prohibition to carry on semen bank, without registration.—No person shall carry on a semen bank in Delhi unless he has been duly registered in respect of such semen bank and the registration in respect thereof has not been cancelled under section 7 of this Act.

4. Registration of semen banks.—(1) Every person intending to carry on a semen bank in Delhi shall make, every year, an application for registration or the renewal thereof, to the Supervisory Authority:

Provided that in case of a semen bank which is in existence at the date of the commencement of this Act, an application for registration under this Act, shall be made within three months from the date of such commencement.

(2) Every application for registration or renewal of registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed.

5. Certificate of registration.—(1) Subject to the provisions of this Act and the rules made thereunder, the Supervisory Authority shall, on receipt of an application for registration, register the applicant in respect of the semen bank named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the Supervisory Authority may refuse to register the applicant if it is satisfied—

(a) that the applicant or any person employed by him at the semen bank, is not a fit person to carry on or to be employed at the semen bank named in the application; or

(b) that it does not have the qualified staff or equipment to carry out the prescribed tests of the donor/recipient or to store the semen; or

(c) that for reasons connected with the situation, the construction, staff or equipment of the semen bank or any premises used in connection therewith, is or are not fit to be used for semen bank or such description as the semen bank mentioned in application or that the semen bank or premises is or are used or to be used for purposes which are, in any way, improper, or undesirable in the case of such semen bank.
1. Punishment for carrying on semen bank without registration.—Whoever contravenes the provisions of section 3 shall be punishable with fine, which may extend to five thousand rupees and in the case of second or subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

7. Cancellation of registration.—Subject to the provisions of this Act, the Supervisory Authority may, at any time, cancel the registration of a person in respect of any semen bank on any ground which would entitle it to refuse an application for the registration of that person in respect of that semen bank or on the ground that the person has been convicted of an offence under his Act or that any other person has been convicted of such an offence in respect of that semen bank.

14. Duties of qualified medical practitioner/Government hospitals, etc. performing artificial insemination.—The qualified medical practitioner or Government hospital or hospital or the semen bank performing artificial insemination, as the case may be, shall—
(a) keep complete record of the bio-data including mark of identification of the donor and the recipient of the semen or ovum;
(b) test the recipient for "HIV 1 and 2" and sexually transmitted diseases before performing artificial insemination;
(c) seek the written consent of the husband and the wife, seeking artificial insemination;
(d) seek the written consent of the donor and the recipient and their spouse, in case of requests of semen or ovum from specified donor/recipient;
(e) not segregate the XX or XY chromosomes for artificial insemination.

Explanation.—The letters "XX" and "XY" used in this clause denote "female sex" and "male sex" respectively;
(f) maintain secrecy about the identity of the donor and the recipient of the semen/ovum;
(g) seek the written consent of the recipient for using the semen on the basis of only one ELISA Test being negative where facilities for cryo-preservation and liquid nitrogen for semen are not available.

Power to call for information or to seize articles.—If the Supervisory Authority has reason to believe that any of the provisions of this Act is being violated, he may call for any information or may seize any article, medicine or any other related things, admission register or other document maintained/kept or found at the place.

General provision for punishment of offences.—Whoever contravenes any provision of this Act or of any rule or order mentioned above shall, if no punishment is provided for the offence, be punishable for the first offence with fine which may extend to five hundred rupees, and for second or subsequent offence with fine which may extend to two thousand rupees.

Punishment for contravention of provisions of section 10, 11, 12, 13 or 14.—Whoever contravenes any of the provisions of section 10, 11, 12, 13 or 14 of this Act shall be punishable with imprisonment for a term which may extend to three months and with minimum fine of five thousand rupees.

Court competent to try offences under this Act and take cognizance of offences.—(1) No court other than the court of the Metropolitan Magistrate shall take cognizance of, and try an offence under this Act.
(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of the Supervisory Authority or any Officer authorised by it, in writing, in this behalf.
(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences under this Act shall be non-cognizable and bailable.

Power to delegate.—The Government may, by notification in the Official Gazette, direct that any power exercisable by the Government under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

Protection of action taken in good faith.—No suit, prosecution, or other legal proceedings shall lie against any officer, the Supervisory Authority or Government for anything which is in good faith done or intended to be done in pursuance of this Act.

Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
(a) prescription of date and form of application and the fee required to be paid for registration of semen banks;
(b) prescription of form of certificate of registration;
(c) prescription of tests in respect of donors/recipient;
(d) any other matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government, necessary.
(3) Any rule made by the Government shall be subject to previous publication thereof in the Official Gazette.
(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly and House agrees in making any modifications in the rule or the House agrees that the rule should not be made, the rule shall suffer have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification in a rule shall be without prejudice to the validity of anything previously done under that rule.