

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 16.01.2012**

% **W.P.(C) 8745/2011 & C.M. Nos.19767-68/2011**

RANGNATHAN PRASAD MANDADAPU Petitioner

Through: Ms. Suman Kapoor and Anand
Shailani, Advocates

versus

MEDICAL COUNCIL OF INDIA & ANR Respondent

Through: Ms. Ashish Kumar and Amit kumar,
Advocates

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

VIPIN SANGHI, J. (Oral)

1. The petitioner has preferred the present writ petition under Article 226 of the Constitution of India, to seek a direction against respondent no.1, i.e. Medical Council of India (MCI) to grant permanent registration to the petitioner. The petitioner also seeks a direction to respondent no.2, i.e. National Board of Examinations (NBE) to recognize the petitioner's candidature in the CET, NBE December 2011 Examination. The petitioner also seeks a direction to respondent no.2 to communicate the result of the petitioner for the CET NBE examination held in December 2010.

2. The petitioner had earlier preferred a writ petition being W.P.(C.) No.5548/2006, which was allowed by the Court. A direction was issued to the respondent, MCI to provisionally enroll the petitioner with it, and to permit him to complete the compulsory rotatory internship in India. The relevant facts of the case, and the respective submissions of the parties, have been set out in the judgment dated 13.01.2009 passed in the aforesaid writ petition. I consider it appropriate to set out the relevant paragraphs of the said judgment:

“2. The facts necessary for the purpose of deciding this case are that the petitioner had completed his intermediate (10+2) from the Board of Intermediate Education, Andhra Pradesh, with first division. He joined the medical course at the Russian Peoples Friendship University, Moscow in 1993. He alleges having completed Russian Language Course in that University (hereafter called “Moscow University”), in 1993-94, which was mandatory for foreign students and joined the first year of the medical course in 1995. He claims to have completed his medical course and obtained the M.D. Physician Degree from the St. Petersburg State Medical Academy (hereafter referred to as “St. Petersburg Academy”) in 2003. The petitioner appeared in the Screening Test conducted by the National Board of Examination (NBE) for securing provisional registration, with the Medical Council of India (MCI); he qualified. It is alleged that at that stage, MCI refused to accept the application, contending that a First Information Report (FIR) alleging commission of offences (offences under Sections 420/468/471 IPC) by him, i.e. the petitioner were registered and pending against him. The petitioner contends that having regard to the judgment of the Supreme Court in W.P.(C.)

No.604/2002 delivered on 16.11.2004, the guidelines for registration of doctors mandated that if candidates completed their medical course abroad, before 15.03.2002, and appeared in the Screening Test, they should be permitted registration.

3. The petitioner alleges having fulfilled the necessary requirements spelt out in the Supreme Court's judgment as is quoted in extenso from the ruling. He contends that since the M.D. Physician degree issued by the St. Petersburg Academy is a recognized qualification, therefore, the MCI, even after he being declared successful in the Screening Test, has unjustly denied him registration.

4. The petitioner alleges that he had completed four years of medical studies at the Russian University when he became aware that those who studied regularly for more than five years could directly join the final semester to obtain the medical degree. He alleges having completed the course and passed all exams in Medicine, Surgery, Pediatrics, Social Medicine, Obstetrics and Gynecology in the Moscow University in 2000 and further having obtained a degree through the then Dean. The petitioner contends that he believed the degree to be genuine, on the basis of which, he obtained provisional registration for internship at Vijaywada, Andhra Pradesh. Unfortunately, the information furnished to him was wrong and the degree was found to be fake by the MCI. As soon as he was informed by MCI about fake degree, he obtained Visa and went back to Russia to verify the genuineness of the document, and completed the rest of three semesters of study which he did at the St. Petersburg Academy. He claims having successfully completed the fifth year second semester and sixth year and the State Board Examination from the St. Petersburg Academy and then obtained the medical degree on 20.06.2003. The petitioner contends that the allegations about his involvement in forgery and submission of false documents are unfounded and that he was a victim of misrepresentation that led to his return to Russia to complete the balance course. In these

circumstances, he states that having qualified in the Screening Test, the respondent cannot deny registration merely on the basis of pendency of criminal prosecution.

5. The MCI contends that according to its procedure, certificates submitted by the applicants have to be verified by the concerned foreign Board or University. It is after this evaluation that applicants are permitted provisional recognition and allowed to start the 12 months mandatory internship. This, the counsel contends applies even to those students who completed a Six-years course.

6. The MCI contends that along with the application furnished earlier on 21.11.2000, the petitioner had furnished a degree certificate dated 14.06.2000, ostensibly issued by the Moscow University, stating that he had undertaken graduate medical course during the period 1994-2000. On the strength of these documents, the MCI had granted provisional registration on 18.12.2000 pending authenticity and verification of the documents. It claims that the authenticity verification received from the Embassy of India at Moscow on 14.05.2001 stated that the medical certificate dated 14.06.2000 was fake according to the information given by the Dean of Foreign Students Department, Moscow University, MCI, therefore, cancelled the provisional registration on 29.05.2011.

9. It is contended on behalf of the petitioner that the MCI harped on old facts and that the charge of suppression or misrepresentation is baseless. According to the petitioner, he is a victim of fraud and cannot be penalized doubly for it. Immediately on learning that the Russian State Medical University, Moscow had disclaimed his candidature, he returned to Moscow and on the basis of his admitted academic course undertaken by him, enrolled at the St. Petersburg State Medical Academy. It was contended that the Court had, on 19.02.2007, directed the respondent to verify the diploma/degree and the other documents submitted by the

petitioner purportedly, issued by St. Petersburg Academy. The MCI was required to complete the verification process through appropriate channels. Further to this verification process, the MCI filed an affidavit on 17.11.2007.

10. The affidavit encloses copies of correspondence between the Ministry of External Affairs, Govt. of India and the MCI. The Consulate General of India had sought verification from the St. Petersburg State Medical Academy, which on 04.09.2007, confirmed having issued the diploma certificate to the petitioner on 26.06.2003. The Consulate General communicated this through letter to the New Delhi office. This was communicated to the MCI by the Ministry of External Affairs through its letter dated 25.09.2007. The letter of the Consulate General to the foreign office in Delhi is as follows:

From : Congendia Saint Petersburg

To : Foreign New Delhi

*Shri Rahul Srivastava, US (Russia), Eurasia
Division, MEA from Consul (Consular)*

*Reptd to: i) SO (Consular), MEA, Patiala HouseAnnexe
ii) Dr P. Kumar, Addl. Secy, MCI, Dwarka, ND*

*Subject: Verification of medical degree required in Court
case*

*Please refer to your fax msg. No. Nil dated 17.8.2007
regarding checking of authenticity of medical degree of
Dr. Ranganatha Prasad Mandadapu required in
connection with a court matter.*

*His medical document was forwarded to concerned
authorities in the St. Petersburg State Medical Academy
named after I.I. Machnikav for immediate verification.
They have now replied and confirmed issuing Doctor's*

Diploma No.DIS 0025552, Registration No.1133 to Mr. Ranganatha Prasad Mandadapu on 26.6.2003. A copy of their letter (in Russian) with its English translation is also faxed herewith.

*Sd/-
(Abhay Kumar)
Consul (Consular)*

11. The preceding discussion shows that the petitioner apparently completed about four and half years medical course, furnished a certificate, which led to issuance of provisional registration, by the MCI in 2000. Further, the authenticity of this was not certified by the Moscow University and the provisional registration was withdrawn on 29.05.2001. The MCI intimated the police authorities; this led to lodging of a First Information Report. The petitioner's version was that he was also misled into the believing that the diploma could be issued by the Moscow University. The truth or otherwise of that matter is pending investigation.

12. The petitioner contends (a fact now not denied by the MCI) having gone back to Russia and completed the balance course but from another institution, i.e. St. Petersburg State Medical Academy. The latter institution certified the petitioner's having completed the course and having issued the diploma on 23.06.2003. The petitioner came back and attempted the Screening Test. It is again not denied that he was successful in the process. The MCI, however, is denying registration on the ground of pendency of a criminal case.

13. In this Court's decision in Dr. Sukanta Ghosh v. MCI (LPA 376 of 2006), the petitioner's marksheet in the AISSCE issued by the CBSE in 1991 was under a cloud. He had like the present petitioner completed the medical course and also the compulsory rotator internship in Russia. The MCI, on account of pendency of criminal proceedings, cancelled his resignation.

The Court declined to interfere and held that MCI could consider the issue again after completion of the criminal proceedings. In the present case, the MCIs contention is primarily about the existence of criminal case and not pertaining to the genuineness of certificate, which led to awarding the degree. The degree was produced by the petitioner in 2000; he claimed to have obtained it from the Moscow University. The later events, however, are not in dispute at all. That the petitioner subsequently went to another institution in Russia, i.e. the St. Petersburg Academy which issued the certificate on 23.06.2003, which is acceptable to the MCI from the academic perspective; that the petitioner qualified in the Screening Test, (like other students, who complete their studies in foreign universities are required to), and that the St. Petersburg Academy has authenticated the document, which is now deemed found genuine are no longer in dispute. What, therefore, stands established is that the petitioner holds a valid degree, duly authenticated from a foreign university, i.e. St. Petersburg Academy. These acts, in the opinion of the Court, distinguishes the petitioner's case from Dr. Sukanta Ghosh's case.

14. Besides above, the Court cannot ignore the fact that often times students are misled into situations where they turn up to be victims. Whether the petitioner really was entitled to a degree in 2000 or not and whether the document was fake and his role or responsibility are questions that will undoubtedly be gone into in criminal proceedings. However, the pendency of those proceedings cannot, in the opinion of the Court, automatically elevate the suspicions, howsoever strong, into proven facts, which should damn an individual's career, particularly in such cases. The MCIs "hands off" policy in not taking any action at all, without any rudiment of enquiry, can result in irreparable damage to the career and life of students who might ultimately turn out to be innocent. In this case, the petitioner had the ability to return to Russia and secure an acceptable medical qualification. In other cases, students may

not be so fortunately placed. The MCI should in such circumstances, in the opinion of the Court, carry out its own independent investigation to verify whether such students are victims or are perpetrators and not merely assume the role of a by-stander.

15. In view of above discussion, this Court is of the opinion that the petitioner should be granted the relief he claims. A direction is, therefore, issued to the respondent MCI to provisionally enroll him with it and permit his completion of compulsory rotatory internship in India. While doing so, it is open to the MCI to impose a condition that in the event of an adverse order in the criminal proceedings, it would take such action against the petitioner as warranted in law after reviewing the facts and circumstances”.

3. Consequent upon the aforesaid decision, the petitioner has completed his rotatory internship. The petitioner thereafter appeared in the CET NBE conducted by respondent no.2 in December 2010. However, the petitioner's result has not been declared by respondent no.2, as the petitioner has not been granted permanent registration by respondent no.1.

4. The submission of learned counsel for the petitioner is that the pendency of the criminal proceedings should not be allowed to mar the career prospects of the petitioner. Admittedly, the petitioner is fully qualified and eligible to be granted permanent registration by the MCI. The criminal trial may take years to get completed. The petitioner cannot be

deprived his right to profess his profession merely because the said trial is pending.

5. The submission of counsel for the respondent, MCI is that the criminal proceeding against the petitioner is still pending. He submits that till the said criminal case is finally decided, the petitioner cannot be granted permanent registration. He further submits that the learned Single Judge, while allowing the petitioner's earlier writ petition had observed that it is open to the MCI to impose a condition that in the event of an adverse order in the criminal proceedings, it would take such action against the petitioner as warranted in law, after reviewing the facts and circumstances.

6. Counsel for the respondent further submits that there are a large number of other similar cases pending, and a decision in this case to allow the petitioner to seek permanent registration would have an impact on those cases as well. He further submits that the respondent has no mechanism of keeping a track on the criminal proceedings, and in case the petitioner is condemned in the criminal proceedings, the respondent would not even come to know, to be able to take action against him.

7. It is clear from the aforesaid judgment dated 13.01.2009 that the Court has accepted the position that the petitioner has successfully

completed the entire medical course which is recognized by the MCI as a qualification falling within the schedules. The issue whether the petitioner was a culprit, or a victim, in the process of issuance of an earlier certificate, which is alleged to be fake, is still pending consideration before the concerned Court. As held by the learned Single Judge, the pendency of the said criminal proceedings should not be permitted to damn the petitioner's career, as the said proceedings are likely to take considerable time.

8. Undisputedly, the petitioner went back to complete the course upon it being discovered that earlier he had not completed the course, and only thereafter a fresh certificate was issued to him on 23.06.2003, which is acceptable to the MCI from the academic perspective. It is on this basis that the Court had allowed the earlier writ petition and permitted the petitioner to undergo compulsory rotatory internship in India on the basis of a provisional registration.

9. The petitioner having completed the compulsory rotatory internship, in my view, the pendency of the aforesaid criminal proceedings cannot come in his way in obtaining a conditional permanent registration, as without any such registration, the petitioner will not be in a position to pursue his higher studies or be able to practice as a qualified doctor. The

fact that various other similar cases may be pending is no ground to deny relief to the petitioner, to which he appears to be fairly, reasonably and equitably entitled.

10. Today, the issue is not whether the petitioner is academically qualified or not, to get permanent registration. He has the requisite qualification to get the permanent registration. The issue is only whether he is guilty of playing a fraud upon the MCI, in earlier submitting documents – wherein he claimed himself to be qualified. The issue is with regard to the said conduct of the petitioner. Unless the petitioner is held guilty in respect of that conduct, he cannot be debarred or prevented from pursuing his profession, as he is, admittedly, academically qualified. Even if he is held guilty, it would need examination whether he should, and if so, for what period, so prevented.

11. However, to safeguard the concern of the respondents, the petitioner should be subjected to terms.

12. Accordingly, this petition is allowed and I direct the respondent, MCI to grant conditional permanent registration to the petitioner, provided the petitioner fulfills all other terms and conditions required under the rules and regulations of the Medical Council of India, and not to deny the same to

the petitioner only on account of the pendency of the criminal proceedings. This is subject to the condition that the petitioner gives an undertaking to this Court that the petitioner shall keep updating the status of the criminal case with the respondent every six months, i.e. on the 1st of January and 1st of July every year, and shall also provide certified copies of the order sheets of the criminal proceedings to the respondent MCI. The undertaking be furnished before this Court within four weeks with a copy to counsel for the respondent. Upon it being furnished, the undertaking shall stand accepted, and shall bind the petitioner.

13. The conditional permanent registration that may be granted to the petitioner would not come in the way of the MCI in taking action against the petitioner, in case any adverse orders are passed in the criminal proceedings against the petitioner, as warranted in law, after reviewing the facts and circumstances.

14. Since the conditional permanent registration of the petitioner would be granted only after the passing of this order, the same cannot relate back and, therefore, the petitioner's attempt in the examination conducted by respondent no.2 in the past cannot be regularized. To that extent, the relief prayed for against respondent no.2 is not granted.

15. Petition stands disposed of in the above terms. Parties are left to bear their respective costs.

JANUARY 16, 2012
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VIPIN SANGHI, J