



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO.41942 OF 2019 (GM-RES)

BETWEEN:

MR BINAYAK BHATTACHARJEE
S/O LATE YADAV CHANDRA BHATTACHARJEE
AGED ABOUT 49 YEARS
RESIDING AT P402,
SHRIRAM SAMRUDDHI APARTMENTS,
KUNDALAHALLI GATE,
VARTHUR MAIN ROAD,
BENGALURU - 560 066.

...PETITIONER

(BY SRI. HEMANTH S, ADVOCATE)

AND:

1. DR SHANKAR KUMAR
INTERNAL MEDICINE,
MANIPAL HOSPITAL,
NO.98, HAL AIRPORT ROAD,
BENGALURU 560 017.
2. MANIPAL HOSPITAL
NO.98, HAL AIRPORT ROAD,
BENGALURU 560 017,
REPRESENTED BY ITS REGISTRAR
3. KARNATKA MEDICAL COUNCIL
#16/6, 2ND FLOOR,
MILLER TANK BED AREA,
VASANTHNAGAR, BANGALORE - 560052
REPRESENTED BY ITS REGISTRAR.

Digitally
signed by
SUMA B N
Location:
HIGH COURT
OF
KARNATAKA



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

4. MEDICAL COUNCIL OF INDIA
POCKET-14, SECTOR-8, DWARAKA,
DELHI 110077
REPRESENTED BY ITS DEPUTY SECRETARY.

...RESPONDENTS

(BY SRI.S.V.JOGA RAO, ADVOCATE FOR R1 AND R2;
SRI. B.H.DORERAJ, ADVOCATE FOR R3 AND R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 13.01.2018 ISSUED BY THE R-3 ANNEXURE-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner was a complainant before respondent No.3- Karnataka Medical Council. The grievance of the petitioner was that respondent Nos.1 and 2 had committed negligence and carelessness while administering treatment to his mother resulting in her death. The said complaint was taken upon by the respondent No.3 - Karnataka Medical Council.



CNR: KAHC010275042019

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WP No. 41942 of 2019

2. Thereafter, by communication dated 13.01.2018, respondent No.3 - Karnataka Medical Council had informed the petitioner that it had received the reply along with documents from Dr.H.Sudarshan Ballal, Chairman and Dr.Shankar Kumar of respondent No.2-Hospital.

3. It had found there was no *prima facie* case of medical negligence. As such, it had held no further enquiry was required. The said communication was enclosed with the response submitted by the aforesaid Doctors.

4. Being dissatisfied with the same, the petitioner herein had approached the respondent No.4 - Medical Council of India by filing an appeal. The respondent No.4 - Medical Council of India on hearing the parties, confirmed the order passed by the respondent No.3 Karnataka Medical Council. Being aggrieved, the present petition is filed.



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

5. The only ground urged by the learned counsel for the petitioner is that respondent No.3 - Karnataka Medical Council did not give the petitioner an opportunity of being heard while it has merely accepted the explanation given by the erring Doctors of respondent No.2 - Hospital, which is an error rendering the order a nullity. He submits that the respondent No.4 - Medical Council of India also did not provide him an opportunity and therefore, both the orders suffer from violation of principles of natural justice.

6. Learned counsel appearing for respondent No.3 - Karnataka Medical Council on the other hand submits that though Annexure-A indicate that respondent No.3 Karnataka Medical Council having accepted the explanation and finding there is no *prima facie* case, the said decision has been arrived at based on the detailed explanation furnished by the concerned Doctors, which was enclosed to Annexure-A. He submits that earlier practice was that upon a complaint filed by any person,



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

explanation used to be called for by the concerned Doctors and after considering the explanation only if a *prima facie* case was found, the enquiry used to be conducted, which is the procedure adopted even in this case as well and the petitioner has been furnished with a copy of the explanation, which had been accepted by the respondent No.3 - Karnataka Medical Council, thereby, principles of natural justice have been fully complied.

7. He also draws attention of this Court to the paragraph Nos.6, 7 and 8 of the Order passed by the respondent No.4 - Medical Council of India and submits that the petitioner who had gone before the respondent No.4 - Medical Council of India in an appeal, had indeed made a specific request to the respondent No.4 - Medical Council of India to analyze and interpret the explanation offered by the concerned Doctors and thereafter, to pass orders accordingly. In other words, he submits that petitioner who was furnished with the information in the nature of copy of the explanation offered by the concerned



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

Doctors has been given complete hearing even by the Appellate Authority. Thus, there has been complete compliance to the requirement of principles of natural justice warranting no interference in the hands of this Court.

8. Learned counsel for respondent Nos.1 and 2 appearing through video conferencing supplements to the submissions made by learned counsel appearing for the respondent No.3 - Karnataka Medical Council.

9. Heard learned counsel for the parties and perused the records.

10. The only grievance of the petitioner is that he has not been provided with an opportunity of being heard by the respondent No.3 - Karnataka Medical Council. Though at the first blush, reading of Annexure-A justifies the submission made by learned counsel for the petitioner, further probe into the records indicates that petitioner was indeed furnished with a copy of the detail explanation



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

submitted by the concerned Doctors, which is at page Nos.58 to 72 of the petition. Apparently, based on this explanation, respondent No.3 - Karnataka Medical Council has found that there are no *prima facie* case to proceed with the enquiry.

11. The respondent No.4 - Medical Council of India, upon the appeal filed the petitioner, primarily on the ground of he not having been provided with an opportunity to be heard, at paragraph Nos.6, 7 and 8 of the order has held as under:

"6. The Ethics Sub Committee noted the allegations of the appellant in his complaint alleging that it was never told by Dr. Kumar that Clopidogrel 75mg has dangerous side effects which can cause bleeding from the brain, Haemorrhagic stroke, Fatal Intracranial bleeding from the brain, Hallucinations, Aplastic anemia, muscle pain and other complications.

7. It was further noted by the Ethics Sub Committee that the appellant Sh. Binayak Bhattacharjee initially filed a complaint dated 12.10.2017 in Karnataka Medical Councilii alleging medical negligence on the part of Dr. Shankar Kumar and Dr. H. Sudarshan Ballal of Manipal Hospital, Bangalore, Karnataka in the treatment administered to his mother, Late Mrs. Gouri Debi.



CNR: KAHC010275042019

NC: 2026:KHC:44345
WP No. 41942 of 2019

After perusal of the complaint and hearing the concerned doctors, the Karnataka Medical Council vide its order dated 13.01.2018 stated as under:

".....I am directed by the President of the Karnataka Medical Council to inform you that K.M.C. has accepted the explanation submitted by the above said doctors and decided that there is no prima facie case of medical negligence. Hence, no further enquiry is required."

8. The appellant aggrieved by the decision of the Karnataka Medical Council filed an appeal dated 08.03.2018 before the Medical Council of India. The appellant stated in his appeal that the decision of Karnataka Medical Council is based on the hearing given to the Doctors and no opportunity was given to the appellant to hear. The appellant further prays to analyze and interpret actual facts and supporting information.

The Ethics Sub-Committee after hearing the appellant noted that the appellant was not given hearing in the Karnataka Medical Council and had therefore filed an appeal before the MCI. Now, the Ethics Committee of the MCI heard both the parties in detail and after detailed deliberation and after going through the records of the case and statements submitted by both the parties and the observations enlisted above, the Committee is of the unanimous opinion that there is no infirmity in the decision dated 13.01.2018 passed by the Karnataka Medical Council and decided to uphold the same."

The above recommendations of the Ethics Committee have been accorded approval by the Board of Governors at its meeting held on 10.03.2019."



CNR: KAHC010275042019

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WP No. 41942 of 2019

12. The contents of paragraph No.8 of the aforesaid order, more particularly, the sentence that "The appellant further prays to analyze and interpret the actual facts and supporting information" indicate, as rightly pointed out by learned counsel for respondent No.3- Karnataka Medical Council in that the petitioner indeed has been given full opportunity of being heard, even on the factual aspect of the matter. It is only thereafter the respondent No.4 - Medical Council of India has proceeded to pass the order confirming the order passed by the respondent No.3 - Karnataka Medical Council.

13. In that view of the matter, this Court do not see any reasons to accept the contentions of the petitioner that he was not provided an opportunity of being heard.

14. Accordingly, petition is ***dismissed***.

Sd/-
(M.G.S. KAMAL)
JUDGE

MDS
List No.: 1 Sl No.: 26