



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

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

WRIT PETITION NO. 24681 OF 2022 (GM-RES)

BETWEEN:

DR. SANDHYA S
W/O DR SHIVAKUMARA SWAMY T S
AGED AOUT 39 YEARS,
CONSULTANT OBSTERICIAN
AND GYNECOLOGIST
R/A NO 5 7TH MAIN
R K SHELTERS KUVEMPUNGAR
DODDAKALLASANDRA
KANANKAPURA ROAD
BENGALURU - 560 062.

PREVIOUSLY WORKING AT APOLLO CRADLE HOSPITAL 26 46TH
CROSS
5TH BLOCK JAYANAGAR
BENGALURU - 560 011.

...PETITIONER

(BY SRI. SANDEEP S PATIL.,ADVOCATE)

AND:

1. KARNATAKA MEDICAL COUNCIL
NO 16/6, 2ND FLOOR
MILLER TANK BED AREA
VASANTH NAGAR
BENGALURU 560052
REPRESENTED BY ITS PRESIDENT.
2. THE REGISTRAR
KARNATAKA MEDICAL COUNCIL
NO 16/6, 2ND FLOOR
MILLER TANK BED AREA
VASANTH NAGAR
BENGALURU 560 052.
3. DR GAYATHRI H N
NO 723 1ST CROSS
I FLOOR, 11TH CROSS
PADMANABHANAGAR
BENGALURU 560 070.

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



ALSO AT APOLLO CRADLE HOSPITAL
NO 26 46TH CROSS 5TH BLOCK
JAYANAGAR
BENGALURU 560 011.

4. THE ADMINISTRATOR
APOLLO CRADLE HOSPITAL
NO 26 46TH CROSS 5TH BLOCK
JAYANAGAR
BENGALURU - 560 011.

ALSO AT APOLLO CRADLE HOSPITAL
NO 26 46TH CROSS
5TH BLOCK JAYANAGAR
BENGALURU - 560 011.

5. DR KATHYAINI V S
RESIDENT OBSTERICIAN
NO 120 GROUND FLOOR
13TH MAIN 3RD CROSS
BTM LAYOUT 1ST STAGE
AICOBO LAYOUT
BENGALURU - 560 067.

ALSO AT APOLLO CRADLE HOSPITAL
NO 26 46TH CROSS
5TH BLOCK, JAYANAGAR
BENGALURU - 560 011.

6. SRI KESHAVAMURTHY
S/O LATE PAPANNA C
NO 7 , 4TH CROSS, T G LAYOUT
DATTATREYA TEMPLE STREET
ITTAMADU, B SK 3RD STAGE
BENGALURU - 560 085.

...RESPONDENTS

(BY SRI. BASAVARAJ SAPPANNAVAR SHIVAPPA., ADVOCATE FOR R1 AND
R2; SRI. N.C. MOHAN ADVOCATE FOR R3;
R4 SERVED BUT UNREPRESENTED
SRI. H.S. DWARAKANATH., ADVOCATE FOR R5;
SRI. DEEPAK B.R. ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED
01.10.2022 PASSED BY THE R1 AND 2 KARNATAKA MEDICAL COUNCIL IN
ENQ/03/2014(PRODUCED AS ANNEXURE-A) AND ETC.

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

1. Petitioner who has suffered an order dated 01.10.2022 as per Annexure-A at the hands of respondent No.1-Karnataka Medical Council, whereby a direction has been issued to remove her name from the register for a period of six months is before this Court.
2. Preliminary objections raised by the respondent-Authorities, contending that the writ petition is not maintainable in the light of alternate remedy in the nature of filing of appeal provided under Sections 27 and 30(3) of the National Medical Commission Act, 2019 and also Regulation 8.8 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002.
3. In response, learned counsel for the petitioner relies upon the judgment of the Hon'ble Apex Court in the case of ***M/s. Godrej Sara Lee Ltd. Vs. The Excise and Taxation Officer-cum-Assessing Authority and***



others reported in **2023 LiveLaw (SC) 70** to contend that mere availability of the alternate remedy would not exclude this Court from determining the question raised under Article 226 of Constitution of India, he submits convenience of the parties may also have to be kept in mind, more particularly when the matter is pending before this Court since 2022.

4. Drawing attention of this Court to document at Annexure-J, a letter correspondence seemed to have been issued by respondent No.1-Council addressed to certain Mr. Keshavamurthy, he submits that the perusal of the said letter would indicate that the petitioner herein is innocent of the imputation made against her. Therefore, the order passed is unsustainable. He also furnishes a memo along with Orders passed by this Court in writ petition in W.P.Nos.49526/2013, 19160/2023, 21688/2009, 16454-16455/2009 C/W 18933/2009. Based on the above material, learned counsel for the petitioner submits that the writ petition in its present form is very much maintainable and seeks this Court to pass appropriate orders.



5. Heard and perused the records.
6. Sections 27 and 30(3) of the National Medical Commission Act, 2019, reads as under:

" 27. Powers and functions of Ethics and Medical Registration Board.— (1) *The Ethics and Medical Registration Board shall perform the following functions, namely:—*

(a) maintain National Registers of all licensed medical practitioners in accordance with the provisions of section 31;

(b) regulate professional conduct and promote medical ethics in accordance with the regulations made under this Act:

Provided that the Ethics and Medical Registration Board shall ensure compliance of the code of professional and ethical conduct through the State Medical Council in a case where such State Medical Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by medical practitioners under respective State Acts;

(c) develop mechanisms to have continuous interaction with State Medical Councils to effectively promote and regulate the conduct of medical practitioners and professionals;

(d) exercise appellate jurisdiction with respect to the actions taken by a State Medical Council under section 30.

(2) The Ethics and Medical Registration Board may, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

"30. State Medical Councils.

(1)....

(2)...

(3) A medical practitioner or professional who is aggrieved by any action taken by a State Medical Council under sub-section (2) may prefer an appeal to the Ethics and Medical Registration Board against such action, and the decision, if any, of the Ethics and Medical Registration Board thereupon shall be binding on the State Medical Council, unless a second appeal is preferred under sub-section (4).

(4).... "



7. Clearly, there is a statutory provisions provided for an appeal to be filed against the order passed by the respondent No.1-Council as that of the one at hand.
8. Learned counsel for the petitioner, however tried to distinguish the provision contained in Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, 8.8 of which read as under:

" 8.8 Any person aggrieved by the decision of the State Medical Council on any complaint against a delinquent physician, shall have the right to file an appeal to the MCI within a period of 60 days from the date of receipt of the order passed by the said Medical Council:

Provided that the MCI may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, allow it to be presented within a further period of 60 days"

Referring to the term "any person aggrieved", he submits that it refers to only a person other than the physician.

9. This Court do not find it appropriate at this juncture to interpret the object and purport of the said clause in the light of Sections 27 and 30(3) of the National Medical Commission Act, 2019 provided above.
10. The reliance placed on by counsel for the petitioner on to the judgment of the Apex Court in the case of **M/s.**



Godrej Sara Lee Ltd., (Supra) is also of no avail, inasmuch as paragraph No.6 of the very same judgment, wherein the Apex Court referring to its earlier judgment in the case of **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others** reported in **(1998) 8 SCC 1** has laid down the grounds for maintaining the writ petition despite there being an alternative remedy namely;

(i) Where the writ petition seeks enforcement of any fundamental rights;

(ii) Where there is violation of principle of natural justice;

(iii) Where the order or proceedings are wholly without jurisdiction; or

(iv) Where the vires of an Act is challenged.

11. None of these grounds are urged by counsel for the petitioner except stating that on merits that the respondent No.1-Council has erred in imputing the misconduct on the petitioner, this despite there being availability of the Communication as that of Annexure-J.

12. This Court, as already noted above, cannot venture into the merits or otherwise of the finding arrived at by the respondent No.1-Council on the question of facts as the



petition under Article 226 of the Constitution of India cannot be converted into an appeal on findings of fact.

13. The other orders passed by the Co-ordinate Bench of this Court relied upon by the petitioner are also of no avail, inasmuch as the said orders have been passed in the light of violation of principles of natural justice, which is not the case at hand.
14. In that view of the matter, reserving liberty to the petitioner to avail the statutory remedy as noted above, petition is ***disposed of***.
15. It is made clear, if such an appeal is filed within 30 days from the date of receipt of certified copy of this order, time consumed in this petition shall be considered for condonation of delay with all just exceptions.
16. The interim order granted earlier is extended till filing of the appeal and disposal of the interim application, if any filed by the petitioner.

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