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

Judgment delivered on: 29th July, 2015

+ **CRL.M.C. No.2990/2015**

DELHI BHARTIYA CHIKITSA PARISHAD Petitioner
Represented by: Mr. Ashok Mahajan, Advocate.

Versus

SH.ISHWAR SINGH & ANR. Respondents
Represented by: Mr. M.N.Dudeja, Additional Public
Prosecutor for the State.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A.10687/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

Crl. M.A.10688/2015 (for delay)

Keeping in view the averments made in the application, the delay of 191 days in re-filing the instant petition is condoned.

Accordingly, the application is allowed.

CRL.M.C. No.2990/2015

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner/Delhi Bhartiya Chikitsa Parishad (DBCP) has assailed the order dated 06.08.2013 passed by the learned Additional Chief Metropolitan Magistrate (ACMM), Karkardooma Courts, Delhi, in Complaint Case No.09/10/12 (90/10/12), titled as '*Delhi*

Bhartiya Chikitsa Parishad Vs. Ishwar Singh', under Section 30 of the Delhi Bhartiya Chikitsa Parishad Act, 1998 (for short 'DBCP Act').

2. Further seeks setting aside of the impugned order dated 17.05.2014 passed in C.R. No.44/2013 by the learned Additional Sessions Judge-02 (NE), Delhi (ASJ).

3. Briefly stated, the petitioner/complainant is a Government Registered Body authorized to check the quackery and to conduct raid against the doctors who are practicing without any registration with the complainant or have no qualification to do medical practice. The complainant has even got published business public notices in various Newspapers regarding it. The petitioner/complainant received a complaint against the respondent No.1/accused alongwith other persons that he was practicing in Ayurvedic without registration and Dr. Nafiz, Incharge of North East District, Delhi, inspected the clinic of respondent No.1 and found him practising so without having requisite qualifications and recognition by the complainant.

4. As per the allegations, the respondent No.1 was doing medical practice in Ayurveda and during raid, respondent No.1 was allegedly found practicing in Ayurveda without recognition of the complainant. The respondent No.1 allegedly filled up a proforma Ex.CW1/11, in which he himself admitted that he was doing practice in Ayurvedic, whereas respondent No.1 has alleged that he was practicing only in Electropathy which is a separate field and duly recognized by the Government of India. In support of the educational qualification, the respondent No.1 has relied upon the documents Mark D2, Ex.CW2/A1 and Ex.CW2/A2. The

notification issued by the Government of NCT of Delhi and order of Government of India about the practice field of the respondent No.1 have been exhibited as Ex.CW2/A2 and Ex.CW2/A1 respectively. As per document, Ex.CW2/A2, Electropathy/Electro Homeopathy has been recognized a separate field of medication by the Government of NCT, Directorate of Health Services and it has been emphasized that holder of diploma/certificates from NEHM are entitled to practice electropathy system of medicines on the strength of diploma/certificate.

5. It is pertinent to mention here that as per the order passed by the Government of India Ex. CW2/A1, electropathy is not recognized as a system of medicine, there is no system for recognition of any course run by them in the Health Ministry. In the last paragraph whereof, it has been observed “in accordance with Orders of the High Court & Supreme Court quoted here, there is no proposal to stop the petitioners from practicing in electropathy or impairing education, as long as this is done within the provision of the Order No.R 14015/25/96-U (R) (Pt) dated 25th November, 2003. Once the legislation to recognize new systems of medicine is enacted, any practice or education would be regulated in accordance with the said Act. The representation of the petitioner dated 28.10.2009 is disposed off accordingly.”

6. In view of the above letter, it is clear that Electropathy is a separate field of medicine and no recognition of the petitioner/complainant was/is required to do practice in this field.

7. From the testimony of CW2, it is established that he has no knowledge about filing of the complaint or about receipt of any other

complaint thereby alleging that nine persons including the respondent No.1 were doing practice without medical qualification or recognition by the petitioner. The said witness was not aware about the disclosure or non-disclosure by the respondent No.1 during raid that he was authorized to practice in Electropathy. He further deposed that during the raid conducted by the petitioner to check that the respondent No.1 was practicing in Ayurveda, neither any sample of medicine was collected nor any patient was made witness to the same. It is further deposed that BEMC is not connected with the petitioner and it is not a medical field and he is not aware about the Government notifications Ex.CW2/A1 and A2.

8. CW-3 has admitted that neither the complaint dated 23.06.2010, being filed on the basis of Proforma Ex.CW1/11, made against the respondent No.1 nor any material or equipment showing that respondent No.1 was practicing in Ayurvedic medicine were placed on record by the petitioner/complainant.

9. It is clear from the pre-charge evidence that the petitioner has no material on record to charge the respondent No.1 for the alleged offence for which he is being prosecuted. The petitioner/complainant had emphasized on Proforma Ex.CW1/11 in which accused has already admitted his field of practice. In the said proforma a word 'Ayurveda' has been filled up after the word 'Electropathy'.

10. As per document Ex.CW2/A1, Electropathy practice is stated to be a medicine system based on herbal and its medicines are prepared from medicinal plants with the help of distilled water. Its medicines are

therefore 100% safe and curative. Thus, it is clear that field of Electropathy is like an Ayurvedic medicine field based on herbal medicine and a common man may be confused with it as Ayurveda.

11. The educational certificate of the respondent No.1/accused alongwith documents Ex. CW2/A1 and A2 and mentioning of field of medicine as 'Electropathy' in Ex. CW1/11 clearly proves that the respondent No.1 was only practicing in Electropathy medicines and not in Ayurveda.

12. In view of the above discussion, I find no illegality and perversity in the impugned orders dated 06.08.2013 and 17.05.2014 passed by the two courts below. Moreover, the petitioner/complainant has also failed to establish any illegality and perversity therein.

13. Accordingly, the present petition is dismissed *in limine* being without any merits.

**SURESH KAIT
(JUDGE)**

JULY 29, 2015
Sb/jg