

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.4003 OF 2016**

Dr. Chandrakant s/o Bhaskar Mhaske,
age: 56 years, Occ: Service,
R/o C/o Govt. Medical College,
Aurangabad, Tq. & District Aurangabad.

..PETITIONER

Versus

01 The State of Maharashtra,
through its Principal Secretary,
Medical Education And Drugs
Department, Mantralaya,
Mumbai-32.

02 The Directorate of Medical
Education, G.T. Hospital, Mumbai,
through the Director.

03 The Maharashtra University of Health
Sciences, Dindori Road, Mhasrul,
Nashik 422 004.

04 Indian Medical Council,
Pocket -14, Sector-8, Dwarka,
New Delhi 110 077.

..RESPONDENTS

Mr.Pradeep Deshmukh, advocate holding for Mr.Yogesh P. Deshmukh,
advocate for the petitioner.

Mr.P.S.Patil, AGP for Respondents No.1 & 2.

Mr.K.C.Sant, advocate for Respondent No.3.

Mr.S.K.Kadam, advocate for Respondent No.4.

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**CORAM : R.M.BORDE &
K.L.WADANE, JJ.**

DATE : 15th June, 2016

ORAL JUDGMENT (Per R.M.Borde, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the

consent of the learned counsel for respective parties.

2. Petitioner is objecting to the notification issued by the Registrar of the Maharashtra University of Health Sciences, Nashik, directing removal of the petitioner as a member of Board of Study in Clinical Subjects (Medicine & Allied Subjects) (P.G.), Faculty of Medicine Clinical Subject (Medicine & Allied Subjects) (P.G.) as well as member of Medical Council of India. The action is purported to have been taken under sections 36(2) (b) and 32(5)(c) of the Maharashtra University of Health Sciences Act and section 3(1)(b) of Indian Medical Council Act, 1956.

3. Petitioner has been elected as a member of Medical Council of India by virtue of he being a member of Board of Studies in clinical subjects of Maharashtra University of Health Sciences. Petitioner who was appointed as a professor in faculty of medicine is awarded adhoc promotion as Dean of the Medical College, Aurangabad. According to petitioner, by virtue of award of adhoc promotion, he does not cease to be a professor in the faculty of medicine and his substantive appointment as professor remains untouched. The decision of the University communicated by the Registrar in respect of removal of petitioner as a member of Board of Studies in clinical subjects as well as member of faculty of medicine is bad in law. Petitioner has also not been extended an opportunity of hearing before taking such an adverse action. Apart from this, the University does not have any authority to direct removal of

petitioner as a member of Indian Medical Council. Petitioner has been elected as a member of Indian Medical Council which is an independent body established under Indian Medical Council Act, 1956. The Health University does not have any jurisdiction in respect of removal of petitioner as a member of different central body constituted under the Indian Medical Council Act, 1956. The action of the Health University in issuing notification dated 16.10.2015 directing removal of petitioner as a member of Indian Medical Council is in excess of the jurisdiction vested in the university authority. Respondent is unable to extend any plausible explanation supporting the impugned action.

4. In view of reasons set out above, notification issued by the Registrar of University of Health Sciences, Nashik, on 16.10.2015, is not sustainable and deserves to be quashed and set aside and is accordingly quashed and set aside. Rule is made absolute to the extent specified above. In the facts and circumstances of the case, there shall be no order as to costs.

(K.L.WADANE)
JUDGE

(R.M.BORDE)
JUDGE