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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 2655 OF 2002

Dr. Anilkumar Pandurang Shingate ... Petitioner
Vs.
Secretary, Pharmacy Council & Ors. ... Respondents.

Mr. Uday Warunjikar, for the Petitioner.
Mr. Rahul Nerlekar, for the Maharashtra Medical Council.
Mr. Chirag Kamdar, for the Indian Medical Association.

CORAM : V. M. KANADE, &
B. P. COLABAWALLA, JJ.
DATE : MARCH 7, 2016

PC.

1. Heard the learned counsel appearing on behalf of the Petitioner. Application for intervention is allowed. Maharashtra Medical Council and the Indian Medical Association are permitted to intervene in the petition.

2. By this petition, which is filed under Article 226 of the Constitution of India, Petitioner is challenging the notice which is issued by the Maharashtra State Pharmacy Council dated 8th May,

2001, and also the circular dated 4th February, 2002 issued by the State of Maharashtra through its Medical Education and Drugs & Cosmetic Department.

3. In our view by the impugned letter dated 8th May, 2001 the Maharashtra Medical Council has asked the Petitioner to desist from using using allopathic medicine. We are of the view that – so far as challenge to this particular letter is concerned, the challenge is premature, since no action has been taken so far. Petitioner has not admitted that he is using allopathic medicine, though he is a Homeopathic practitioner.

4. We are informed by the learned counsel appearing on behalf of the State that as per the Maharashtra Medical Council Act, 1965, the State of Maharashtra has permitted the Homeopathic practitioners to start prescribing allopathic medicine on their completing six months course. In our view, therefore, on account of amendment to the said Act, the Circular dated 4th February, 2002 is deemed to be set aside. The State of Maharashtra has allowed the Homeopathic Practitioners to practice allopathic medicine. In this view of the matter, the question - as to whether under Section 20(12)

(a) of the Bombay Homeopathic Practitioners' Act, 1959 is repugnant to the Central Council of Homeopathy Act, 1973 has become academic, is not necessary to decide at this stage. Hence, the writ petition itself has worked out. Reserving the right of the Petitioner to approach this Court in the event he is prosecuted, writ petition is disposed of

Sd/-
[B. P. COLABAWALLA, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemth