

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 5487 OF 2016

Dr. Sanjay Parab

... Petitioner

Vs

Maharashtra Medical Council, Mumbai ... Respondent

Mr. Mihir Desai, senior counsel with Mr. Rui Rodrigues and Mr. Mohd. Asadulla Shaikh i/b Ms. Yogita R. Singh for the Petitioner.

Mr. Rahul Nerlekar for the Respondent.

**CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKARJOSHI, JJ.**

THURSDAY, 5TH MAY, 2016

P.C. :

1. The petition has been brought against a suspension pending an enquiry effected by the Maharashtra Medical Council, Mumbai.

2. The Maharashtra Medical Council intends to hold an enquiry into an alleged misconduct or violation of the Maharashtra Medical Council of India Ethics Regulations. The allegation is that the petitioner having projected that he is a

qualified surgeon and in possession of an additional academic qualification from the University of Seychelles.

3. It is the claim of the respondent that such a qualification as is projected and repeatedly is not recognized by either the All India Body or by the State Body.

4. *Prima facie* and as is established from the record produced by the Maharashtra Medical Council itself that the petitioner possesses a degree styled as Masters in Surgery and from a recognized medical institution in India. On the strength of that he could have practiced general surgery and equally could have claimed to be an expert in laparoscopic surgery. The petitioner states that it is that activity and which is lawful *prima facie* which he should be allowed to pursue as not prohibited. The enquiry may go on and the petitioner will cooperate fully therein, but he should not be suspended from practice as that would also affect his livelihood.

5. This is how we have proceeded and though we are reluctant to interfere in suspension order, particularly pending enquiry.

We find that the enquiry is into a very limited issue. Pending such an enquiry *prima facie* there was no reason to suspend the petitioner from medical practice altogether.

6. In such circumstances, without prejudice to the rights and contentions of the Council, we set aside the order of suspension and on the undertaking of the petitioner that in future the petitioner would not utilise or use any such additional qualification or alleged qualification, namely, Master of General Surgery, University of Seychelles, American Institute of Medicine. The petitioner will drop reference to this qualification in all records, including from his personal stationery and e-mail etc. This will be without prejudice to the rights and contentions equally of the petitioner. The enquiry shall proceed and if the petitioner does not cooperate in early conclusion of the same, the Council is free to act in accordance with law.

7. The Writ petition, accordingly, stands disposed of.

DR.SHALINI PHANSALKAR-JOSHI, J. S.C. DHARMADHIKARI, J.