

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.1388 OF 2016

Dr. Sunil Arjun Waghmare Petitioner

V/s.

The State of Maharashtra & Ors. Respondents

Mr. Mihir Desai, Senior Counsel, i/by
Ms. Aafrin Sameer Shaikh, for the Petitioner.

Mr. Umashankar Upadhyay, A.G.P., for
Respondent No.1-State.

Mr. Rahul Sarda, i/by Ms. Sangeeta Yadav, for
Respondent No.2.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 7TH JUNE, 2016.

P.C. :

1. Heard both the sides.
2. During the course of arguments, we indicated to the learned advocate appearing for Respondent No.2-Maharashtra Medical Council that in passing the impugned order, the said Council, beyond noting the facts, the dates and events and the contents of the written arguments, has not assigned clear and cogent reasons as to which violation and of which Article of the Code of Medical Ethics has been established and proved as far as the Petitioner is concerned. The learned advocate sought time to take instructions from Respondent No.2-Council, particularly on whether the Council is willing to withdraw the impugned order and initiate a fresh enquiry.

3. The matter was kept back and post recess, on instructions, the learned advocate for Respondent No.2-Council states that the Council is ready and willing to withdraw the impugned order dated 31st March 2016, copy of which has been annexed to the Memo of the Writ Petition at Page 51(C) onwards, and will initiate fresh enquiry. However, the Petitioner, during pendency of such proceedings, shall not administer Stem Cell Therapy or treatment either at any clinic or establishment of himself or elsewhere.

4. We put it to Mr. Desai, learned Senior Counsel for the Petitioner, as to whether the Petitioner is ready and willing to abide by this condition, which is mooted by Respondent No.2-Council. On instructions, it is stated by Mr. Desai that without prejudice to the rights and contentions of the Petitioner, he undertakes not to carry out any Stem Cell Therapy either at his own clinic or establishment or elsewhere during the pendency of the enquiry proceedings. We accept this statement of Mr. Desai as an undertaking given to this Court by the Petitioner.

5. Once Respondent No.2-Council itself has agreed to withdraw the impugned order, nothing survives in this Writ Petition and the same is, therefore, disposed of.

6. We clarify that we have expressed no opinion as to whether the act indulged-in, allegedly, by the Petitioner breaches or violates the Code of Medical Ethics and the Regulations of 2002 or any other Statutory Instrument.

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