

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 13.04.2016

Pronounced on : 02-06-2016

Coram`:

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 27348 of 2015
and

M.P. Nos. 1 to 3 of 2015

Dr. V.S. Dorairaj

.. Petitioner

Versus

1. The Tamil Nadu Medical Council
represented by its Registrar
New No.914, Old No.569
Poonamallee High Road
Arumbakkam, Chennai - 600 106

2. Dr. P. Balakrishnan
3. Dr. M.S. Hashraf
4. Dr. K. Prakasam
5. Dr. Kumuthalingaraj
6. Dr. K. Senthil
7. Dr. J.A. Jayalal
8. Dr. R.V.S. Surendran

(Respondents 2 to 8 are now functioning as
Members of the first respondent Council
having office at No.914, Old No.569
Poonamallee High Road
Arumbakkam, Chennai - 600 106)

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Writ of Certiorarified Mandamus calling for the records relating to the impugned resolution of the first respondent dated 24.08.2015, quash the same as illegal and consequently forbear the respondents herein from in any way preventing the petitioner from holding and functioning as the President of the Tamil Nadu Medical Council, Chennai till the expiry of his term of office.

For Petitioner : Mr. T.R. Rajagopalan, Senior Advocate
for Mr. K.S. Jayaganesan

For Respondents : Mr. P. Wilson, Senior Advocate
for Mr. K.P. Narayanan for R1

Mr. R. Murali for RR2, 3, 4, 5, 7 and 8
Mr. G. Sankaran for R6

ORDER

The petitioner has come forward with this writ petition challenging the resolution dated 24.08.2015 passed by the first respondent in and by which the first respondent declared the second respondent as the President of the Tamil Nadu Medical Council in the election conducted on 24.08.2015.

2. The case of the petitioner, as could be culled out from the affidavit filed in support of the writ petition is that he was the duly elected President of the first respondent council, which is a statutory body within the State of Tamil Nadu as provided under the Tamil Nadu Medical Registration Act 4 of 1914. According to the petitioner, the members of the first respondent will be nominated and duly elected in accordance with Section 5 of the Tamil Nadu Medical Registration Act. The petitioner would further contend that the council consisting of 10 members out of which 7 members were elected by the registered medical practitioner and 3 were nominated by the State Government.

3. According to the petitioner, he retired as Director of Institute of Venerology in the Madras Medical College and had rendered 33 years of government service. On consideration of such length of service, the petitioner was nominated by the State Government as a member of the first respondent council by issuing GO (D) No.962, Health and Family Welfare Department dated 19.08.2011 and from that date he was functioning as member of the first respondent council. According to the petitioner, the fourth respondent herein was elected as President of the first respondent council but he resigned during June 2014. Therefore, a fresh election was conducted to the post of first respondent council during which the name of the petitioner was proposed for election as President of the first respondent council. Accordingly, on 04.06.2014, the petitioner was elected as President of the first respondent council. After holding the post of President for some time, the petitioner submitted his resignation requesting to relieve him from the post of President. The petitioner also sent a reminder on 06.01.2015 however, the members of the first respondent council resolved to allow the petitioner to continue as President of the first respondent council. Thereafter, on 29.07.2015, the general council meeting of the council was convened and the agenda of the meeting was duly served to all the members. The agenda include taking disciplinary action against some of the members based on the complaint received by the first respondent council. However, two days before the commencement of the meeting on 29.07.2015, on 27.07.2015, His Excellency Dr. A.P.J. Abdul Kalam, former President of India passed away and therefore both the Central and State Government declared mourning. Therefore, on 29.07.2015, even though the meeting was convened, it was convened as a meeting to mourn the death of the former President of the Nation. After the conclusion of the meeting, even though it was declared as a

mourning, the respondents 2 to 8 wanted to move a resolution about the general business of the council which was opposed by the petitioner on the ground that when once a reference was over, there cannot be any convening of meeting since it is opposed to the convention of the council. Notwithstanding such opposition, the members of the first respondent council moved a No confidence motion against the petitioner and resolved to elect a new President on 13.08.2015. In the above stated circumstances, the petitioner filed WP No. 23656 of 2015 before this Court and obtained an interim order of status quo. Even though the respondents were aware of the order of status quo granted by this Court, they have disobeyed the order by resolving to conduct a meeting on 13th and 14th of August 2015 and therefore the petitioner sent a statutory notice. Thereafter, the petitioner filed Contempt Petition No. 1777 of 2015. At the time of hearing of the contempt petition as well as WP No. 23656 of 2015 on 17.08.2015, it was represented on behalf of the respondents that they will not proceed further with the resolution dated 29.07.2015. By recording the said submission, this Court closed the writ petition as well as the contempt petition on 17.08.2015 by way of a common order with liberty to the respondents to proceed in accordance with law. According to the petitioner, it was also specifically held by this Court that the petitioner can continue to hold the office of President of the first respondent council.

4. According to the petitioner, inspite of the order dated 17.08.2015 passed in contempt petition No. 1777 of 2015 as well as WP No. 23656 of 2015, the private respondents did not permit the petitioner to continue as President of the first respondent association. According to the petitioner, even though he had intended to resign the post of President, in view of the attitude of the respondents 2 to 9 in violating the convention followed by the first respondent council, he has intended to withdraw the resignation tendered by him and to continue the post of President till expiry of the term. While so, the respondents 2 to 8 have convened a meeting on 24.08.2015 in which the second respondent was elected as President and the fourth respondent was elected as Election Officer. In connection with the said election convened and conducted by the respondents 2 to 8, the petitioner was not given any notice even though he was holding the post of President as on that date. Therefore, according to the petitioner, the meeting convened on 24.08.2015 is arbitrary, uncalled for and in violation of the norms. Therefore, he has come up with this writ petition with the relief as stated above.

5. Mr. T.R. Rajagopalan, learned senior counsel appearing for the petitioner would contend that the petitioner was duly elected as President of the first respondent council on 04.06.2014 and the respondents 2 to 8 were elected as Members. On 29.07.2015, under the President-ship of the petitioner, a meeting was convened to consider various subjects. However, two days prior to the meeting, on 27.07.2015, the former

President of the Nation passed away and therefore the meeting was converted into one of mourning meeting and no business was transacted as per the custom and convention. However, the respondents 2 to 8 wanted to transact business on that day which was opposed by the petitioner. Aggrieved by the same, the respondents 2 to 8, without any authority of law, passed a No confidence Motion against the petitioner and declared that the post of President of the first respondent council is vacant. They have also resolved to convene a meeting on 13.08.2015 to elect a new President of the first respondent council. According to the learned Senior counsel for the petitioner, there is no provision either under the Tamil Nadu Medical Registration Act or any other regulation to move a No confidence Motion against the President of the Council. Further, the impugned resolution has been passed without convening any meeting preceded by any statutory notice signed either by the Registrar or at the instance of the seven members or by the President. In the absence of any agenda or notice, the impugned resolution passed by the first respondent council is legally not sustainable.

6. The learned Senior counsel appearing for the petitioner also would contend that soon after the No confidence Motion passed against the petitioner, he has filed WP No. 23656 of 2015 in which an interim order of status quo was granted. In spite of such order passed by this Court, which was also duly served on the respondents, the respondents 2 to 8 have conducted meetings on 13.08.2015 and 14.08.2015 which are in gross violation of the order of status quo passed by this Court. The petitioner also filed Contempt Petition No. 1777 of 2015 complaining non-compliance of the order passed in WP No. 23656 of 2015. However, when the Writ petition and Contempt Petition were taken up for hearing on 17.08.2015, this Court recorded the undertaking given on behalf of the respondents 2 to 8 to the effect that they will not give effect to the resolution passed on 29.07.2015. It was also recorded that in the event of any action against the petitioner to remove him from the post of President, there will be an agenda to that effect and the procedure for removal will be followed. It was also observed by this Court that as there is no resolution operating against the petitioner, he shall continue as President of the first respondent as on that date. Therefore, even as on 17.08.2015, the petitioner was the President of the first respondent council who alone is entitled to conduct any business transaction of the first respondent council. It is further contended by the learned Senior counsel appearing for the petitioner that in the meantime, the petitioner has also withdrawn his letter of resignation dated 29.07.2015 by letter dated 19.08.2015 and intended to continue the post of President.

7. According to the learned Senior counsel appearing for the petitioner, in spite of the specific order passed by this Court, the petitioner has received a communication from the first respondent intimating the conduct of the meeting on

24.08.2015 at the instance of the respondents 2 to 7 in which the petitioner was removed from the post of President. The learned senior counsel would contend that the minutes of the meeting dated 24.08.2015 is silent about the resolution or any agenda for removal of the President from the post. In the absence of such a minutes or agenda, the impugned resolution passed by the first respondent is vitiated. However, in the counter affidavit filed by the private respondents, certain additional portions were added in the minutes dated 24.08.2015 to make it as though there was an agenda prepared for removal of the President. The learned Senior counsel for the petitioner vehemently contended that when the copy of the minutes received by the petitioner did not contain any such agenda for the meeting, it can be safely concluded that the insertion of an agenda is an after-thought and the private respondents have manipulated the records. The learned senior counsel for the petitioner further vehemently contend that at the time of passing the impugned resolution, the Petitioner was the President and it is he who has to prepare the agenda and notice of the meeting for being circulated among the members atleast 30 days in advance. In the absence of compliance of the above formalities, the impugned resolution cannot be sustained and it has to be set aside.

8. The learned Senior counsel for petitioner would contend that if a statute requires a particular thing to be done in a particular manner, such thing has to be done only in such manner and any derogation or deviation thereof would vitiate the entire action. In this case, when the By law of the council prescribes preparation of agenda for general council meeting and notice to be issued 30 days in advance, the first respondent council, without complying with such requirements, passed the impugned resolution and it is not valid in the eye of law besides being unenforceable.

9. As regards the contention urged on behalf of the respondents that nothing survives in the writ petition for consideration in view of the subsequent developments that had taken place in this case, the learned Senior counsel for the petitioner relied on the decision of this Court in the case of (Vaidyalingam vs. Madras Secretariat Cooperative House Building Society Limited) reported in 1995 (1) MLJ 385 to contend that at the time even though the first respondent himself has vacated the office of the Presidentship of the first respondent and a new President has taken over, it will not render the relief sought for in this writ petition redundant.

10. On the contrary, the learned Senior counsel appearing for the first respondent, by relying on the counter affidavit, would oppose the writ petition. According to the learned Senior counsel for the first respondent, the petitioner was elected as President of the first respondent Council on 04.06.2014 for a term of two years. After holding the post for some time, the petitioner tendered his resignation which

compelled the first respondent council to call for a general business meeting on 06.01.2015. Even though the petitioner tendered his resignation, he appealed to the members to continue, if they wish. Even though the sixth respondent proposed to contest against the petitioner, the sixth respondent withdrawn his nomination and thereby the petitioner was declared re-elected as the President of the first respondent council on 06.01.2015. According to the learned Senior counsel for the first respondent, the moment the resignation is made, it would amount to acceptance of such resignation and consequently the post will fall vacant. Subsequently, majority of the members of the first respondent council felt that the day to day affairs of the council was not conducted by the petitioner properly and therefore they have resolved to conduct a general business meeting on 29.07.2015 to discuss the issues relating to the functioning of the petitioner as President of the first respondent council. For convening such meeting on 27.07.2015, a notice dated 30.06.2015 was also sent to all the members. On 29.07.2015 when the meeting was convened, floral tributes were paid to Dr. A.P.J. Abdul Kalam, former President of the Nation. Thereafter, when the members wanted to discuss as regards the functioning of the petitioner as President, the petitioner simply walked out of the council. This has necessitated the members of the first respondent council to authorise the second respondent, then Vice-President of the council to conduct the meeting. Accordingly, it was unanimously decided to convene a special meeting on 13.08.2015 to elect a new President and to bring a No confidence Motion against the petitioner. The said motion was put to vote as per the by law and voting through secret ballots was carried out. Majority of the members participated in the voting favoured to bring a No confidence Motion against the petitioner. The minutes of the meeting dated 29.07.2015 was also signed by members of the council. Challenging such decision, the petitioner filed WP No. 23656 of 2015 and obtained an order of status quo. In obedience to the order of status quo, the first respondent council did not conduct any meeting on 13.08.2015. Thereafter, on 17.08.2015, this Court recorded the submissions made on behalf of the respondents and disposed of the writ petition as well as the contempt petition. Subsequently, on 24.08.2015, a special meeting was convened on the basis of the notice dated 29.07.2015 issued by the petitioner in his capacity as President. In the meeting a specific agenda was drawn to conduct election to elect a new President. Even though the petitioner, in his capacity as President has called for the meeting, he did not participate in the meeting. In the meeting, the members have unanimously decided to remove the petitioner from the post of President by passing a resolution as per Rule 1 (4) of the Rules and majority of the members signed the said resolution. The learned Senior counsel for the first respondent also submitted that in a duly conducted election on 24.08.2015, the second respondent was elected as President of the first respondent council. Thereafter, in the election conducted for electing

the Vice-President, the fifth respondent was elected.

11. The learned Senior counsel for the first respondent has quoted from ground No. (vii) of the affidavit filed in support of the earlier petition in WP No. 23656 of 2015 wherein the petitioner himself has averred that he has resigned from the post of President and thereby the post of President is deemed to be vacated. It was further averred that the petitioner has no intention to continue as President of the first respondent council.

12. The learned Senior counsel for the first respondent drawn the attention of this Court to the minutes of the meeting dated 15.02.2016 to indicate the subsequent development taken place in this case. The second respondent held the post of President for some time and thereafter he tendered his resignation. The first respondent council also accepted the resignation of the second respondent in the meeting held on 15.02.2016, in which the sixth respondent was declared as duly elected President. As on date, the sixth respondent is holding the post of President of the first respondent council and therefore, there is nothing survives for adjudication in this writ petition. In support of this contention, the learned Senior counsel for the first respondent relied on the decision of the Honourable Supreme Court in the case of (Sheshambal (dead) through lrs vs. Chellur Corporation and others) reported in (2010) 3 Supreme Court Cases 470 to contend that subsequent developments brought to the notice of this Court cannot be ignored when it has an impact on the relief sought for by the petitioner.

13. The learned Senior counsel for the first respondent also relied on the decision of the Bombay High Court in the case of Arun Trivikramrao Rajurkar and others vs. Gowardhan Janardhan Khotre & others) 1982 Maharashtra Law Journal 576 to contend that the resignation tendered by the petitioner as President of the first respondent Council operates from the date of its tender and no formal acceptance of such resignation is necessary. Even if the letter of resignation is so worded as to make request of its being accepted that would not in any way affect the operation of the resignation when tendered.

14. The learned counsel appearing for the respondents 2, 3, 4, 5, 7 and 8, relying on the counter affidavit of the second respondent, would contend that even in the notice issued by the petitioner in his capacity as President for convening the meeting on 29.07.2015, it was stated that he is going to resign the post of President due to personal reasons and on that date i.e., 29.07.2015, he will conduct the election of new President. However, on 29.07.2015, the petitioner walked out of the meeting abruptly and therefore, the second respondent, as per Rule 2 (b) of the Tamil Nadu Medical Rules for election conducted the meeting in which a No Confidence Motion was brought against the petitioner. This is more so that the

petitioner has ignored his duties as President of the Council which affected the functioning and affairs of the council. The petitioner was removed from the post of President not only on the basis of the resignation tendered by him but also on the basis of a duly convened meeting attended by majority of the members. The allegation that the petitioner withdrew his letter of resignation is incorrect and there is no record to prove the same. The learned counsel for the second respondent therefore prayed for dismissal of the writ petition.

15. The learned counsel appearing for the sixth respondent, who is presently holding the post of President of the first respondent Council, would contend that soon after the petitioner tendered his letter of resignation, the second respondent acted as President In-charge. As a President (In-charge) the second respondent issued 207 Under Graduate Registration Certificate, 305 PG Registration Certificate from 29.07.2015 to 14.08.2015. Subsequently, after the second respondent was elected as President on 24.08.2015, he has issued 1878 Under Graduate Registration Certificate and 1047 PG Registration Certificate. The second respondent also issued about 18000 CME Certificates along with the Registrar in his capacity as President of the Council. Apart from this, the second respondent has also disposed of 68 disciplinary proceedings against the erring Doctors. The second respondent also jointly operated the cheques along with the Registrar of the first respondent council for disbursement of salary to staff, payment of additional establishment, telephone charges etc., During the tenure of the second respondent, 5 General (special) business meeting was convened, 2 Executing Committee meeting, 2 Disciplinary Committee meeting and 2 C.M.E. Committee meeting have been convened. Thereafter, on 15.02.2016, the resignation of the second respondent was accepted and the sixth respondent was elected as the President. Therefore, according to the learned counsel for the sixth respondent, at this stage, if the action of the second respondent or the sixth respondent are nullified at the instance of the petitioner, it would not only undo all the administrative decisions taken by them but would also cause greater impact on the functioning of the first respondent council. At any rate, the petitioner himself has tendered his resignation and as an after-thought he has filed the present writ petition for the reasons best known to him. The learned counsel for the sixth respondent therefore prayed for dismissal of the writ petition.

16. I heard the learned Senior counsel for the petitioner, the learned Senior counsel for the first respondent, the learned counsel for the respective respondents 2 to 8. I had perused the materials placed on record including the rejoinder of the petitioner. The question arise for consideration in this writ petition is (i) whether the resolution dated 24.08.2015 has to be declared as unenforceable and (ii) whether the subsequent development that had taken place in this case

has to be considered for disposal of this writ petition.

17. On appreciation of the above factual aspects, it is evident that the petitioner was elected as President of the first respondent association on 04.06.2014. After holding the post of President for some time, the petitioner voluntarily opted to resign the post of President. In this connection, the petitioner has written a letter dated 29.08.2015 expressing his intention to resign the post of President. In fact, the intention of the petitioner to resign from the post was recorded in the minutes of the meeting dated 06.01.2015 of the first respondent council. However, in the same meeting, as per the request of the members, the petitioner was re-elected as President of the council as per by law 2 (1) of the Rules for election of the President.

18. In his capacity as President, the petitioner proposed to conduct a general business meeting of the first respondent council on 29.07.2015 for which notices were issued. However, two days prior to the meeting, on 27.07.2015, former President of the Nation Dr. A.P.J. Abdul Kalam passed away and therefore, according to the petitioner, as per convention, no business could be transacted and the meeting was converted into that of a meeting of mourning to the President of the Country. However, when other members insisted for taking up the agenda for the meeting, including the resignation of the petitioner from the post of President, it is stated that the petitioner walked out of the meeting abruptly. The minutes of the meeting dated 29.07.2015 is as mentioned below:-

"A condolence meeting was held at the Tamil Nadu Medical Council Hall to mourn the sudden demise of our former President Dr. A.P.J. Abdul Kalam. Floral Tributes were paid by the members to the portrait of Dr. A.P.J. Abdul Kalam.

The President and the members spoke praising the merits and virtues of our former President. A resolution was passed by council to be sent to the bereaved family. Meeting was adjourned for 15 minutes and reconvened.

The President/Vice-President were in the chair. The majority of members wanted to conduct the General Business Meeting of the Council. But the President did not hear the requests of the members and left the meeting abruptly inspite of several requests. He told "let Vice-President conduct the meeting.

The Members authorises the Vice-President Dr. P. Balakrishnan to conduct the meeting in his absence. Majority of the members felt that for the past several months, the affairs of the Tamil Nadu Medical Council were not collusively conducted in the interests of the Doctors and the Council. Members requested to convene a special business meeting on 13th August 2015 to elect a new President.

Hence the voting for "No Confidence Motion" by

secret ballots against the President, Dr. V.S. Dorairaj was held. Dr. P. Balakrishnan, Vice-President conducted the voting. Seven members have participated in the meeting.

Among the seven votes counted, 6 votes were for 'No Confidence Motion' and one was invalid.

Hence, the 'No Confidence Motion' against the President Dr. V.S. Dorairaj was upheld and passed."

19. This resolution dated 29.07.2015 was subjected to challenge by the petitioner by filing WP No. 23656 of 2015 before this Court and obtained an order of Status-quo. The petitioner also filed Contempt Petition No. 1777 of 2015 for non-compliance of the order of status quo passed in WP No. 23656 of 2015. Both the WP No. 23656 of 2015 and Contempt Petition No. 1777 of 2015 were taken up for hearing on 17.08.2015 during which the submission made on behalf of the respondents that they will not proceed further with the resolution dated 29.07.2015 was recorded. The relevant portion of the order dated 17.08.2015 reads as under:-

"2. When the matter is taken up for hearing, the learned counsels appearing for the respondents submitted that the impugned resolution dated 29.07.2015 would not be proceeded with. They also submitted that in the event of any action proposed against the petitioner for removing him from the post of President, there shall be an agenda as per the procedure.

3. In view of the submissions made, nothing survives for consideration. There is no impugned resolution that exist as on today, meaning thereby, the petitioner continues to be the President as on today. Accordingly, the writ petition stands disposed of giving liberty to the respondents concerned to proceed in accordance with law. Thus, the petitioner can only be non-suited by a fresh resolution in accordance with law. Contempt Petition No.1777 of 2015 is also closed."

20. It is evident from the above order passed by this Court that if the petitioner has to be removed from the post of President, a fresh resolution has to be passed by convening a meeting. According to the respondents, pursuant to the order passed by this Court, a special business meeting was conducted on 24.08.2015 in which the second respondent was elected as Vice-President. The agenda for the meeting dated 24.08.2015 has been clearly spelt out in the notice dated 29.07.2015 issued by the second respondent in his capacity as Acting President of the council. In other words, one of the agendas for the meeting is for election of a new President and the meeting dated 24.08.2015 has to be presided by the petitioner. However, the petitioner did not turn up for the meeting. In the meantime, the petitioner sent a letter dated 19.08.2015, through e-mail to the Vice-President and other members of the

council stating that he is withdrawing his letter dated 29.07.2015.

21. According to the respondents, the convening of the special business meeting on 24.08.2015 is in accordance with Clause 1 (4) of the by law which reads as follows:-

"4. The summons convening any meeting, shall declare the purpose of the meeting, whether for general business or for any (named) special business, and at any meeting which is for special business, no business shall be entered on further than such as has been named in the summons, unless the Council by resolution agree to consider such business."

22. As mentioned above, as per Clause 1 (4), during the course of meeting, the council, by resolution, can agree to consider any business, even if the same has not been mentioned in the notice. In the instant case, the materials on record would show that in the meeting held on 24.08.2015, in accordance with clause 1 (4), based on a resolution, the council has considered the resignation submitted by the petitioner from the post of President. Accordingly, the second respondent was elected as President of the council in the said meeting. In fact, it is the petitioner who had fixed the date of meeting as 24.08.2015, in the earlier meeting held on 29.07.2015, but, inspite of the same, he did not attend the meeting on 24.08.2015. Though the petitioner now states that as President of the council, he had cancelled the meeting dated 24.08.2015, nothing is available on record to show that the cancellation of the said meeting was informed to the council. Be that as it may, there was an agenda in the meeting held on 24.08.2015 to remove the petitioner from the post of President and to elect a new President. Accordingly, the second respondent was elected as President. Hence, it is clear that the petitioner was non-suited in accordance with law as observed by this Court in the order dated 17.08.2015 in WP No. 23656 of 2015. Therefore, it is incorrect to state that the petitioner was removed in violation to the Rules and Regulations. After the second respondent was elected as President he has presided over several disciplinary proceedings and taken various decisions in his capacity as President as has been narrated in para Nos. 4 and 5 of the affidavit dated 31.03.2016 of the first respondent. Subsequently, the second respondent also resigned from the post of President and the sixth respondent was elected as a President on 15.02.2016 and presently he is the President of the first respondent council. At any rate, the meeting dated 24.08.2015 was presided over by the second respondent, who was the then Vice-President. It is not in dispute that in the absence of President of the council, the Vice-President is authorised to convene the meeting and to transact the business of the council as per the by law. In such circumstances, especially when the meeting dated 24.08.2015 was preceded by a valid agenda and notice to the

members, I do not find any reason to declare the resolution dated 24.08.2015 as void.

23. The petitioner has filed this writ petition to declare the resolution dated 24.08.2015 by which the second respondent was elected as President of the first respondent council. Now, as mentioned above, the second respondent resigned from the post on 15.02.2016 and the sixth respondent was elected as President. In such a circumstance, it has to be held that the relief, as claimed by the petitioner in this writ petition, has become inappropriate or cannot be granted by reason of the subsequent events that had taken place in this case. In this context, useful reference can be made to the judgment of the Honourable Supreme Court in the case of Ramesh Kumar vs. Kesho Ram (1992) (Supplementary) (2) SCC 623 wherein it was held as follows:-

"6. The normal rule is that in any litigation the rights and obligation of the parties are adjudicated upon as they obtain at the commencement of the list. But this is subject to an exception. Whenever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognisance' of the subsequent changes of fact and law to mould the relief.

24. Applying the observation made by the Honourable Supreme Court to the facts of this case, I find that much water has flown under the bridge after the resolution dated 24.08.2015 has been passed by the first respondent council. As per the resolution dated 24.08.2015, the second respondent was elected as President. Subsequently, on 15.02.2016, the second respondent resigned and the sixth respondent was elected as Vice-President. While so, at this juncture, the resolution dated 24.08.2015 need not be declared as void. Further, in the capacity as President of the first respondent council, the second respondent has taken several administrative decisions in the interest of the first respondent council and they cannot be nullified by interfering with the resolution dated 24.08.2015.

25. The learned Senior counsel for the petitioner relied on the decision of this Court in (Vaidyalingam vs. Madras Secretariat Cooperative House Building Society Limited) reported in 1995 (1) MLJ 385 to contend that there is a dispute which still survives for adjudication by this Court. It is further contended that even though the second respondent himself has vacated the office of the President-ship of the first respondent council and a new President has taken over, it will not render the relief sought for in this writ petition redundant. In that case mentioned supra, pending appeal against the order of the trial court, an application was filed to condone the delay in bringing the legal heirs on record and

to set aside the abatement caused due to the death of the sole appellant. The application for condonation of delay was dismissed and eventually the appeal was also dismissed. Challenging the order dismissing the application for condonation of delay, revision was filed before this Court but no revision was filed against the order dismissing the main appeal. This Court allowed the revision and condoned the delay. At that time, it was argued that this Court allowed only the application for condonation of delay and there is no order passed setting aside the order of dismissal passed in the appeal. In such circumstances, it was held by this Court that the order passed in the application for condonation of delay is dependent viz., 'dependant-order' and when once the application for condonation of delay is ordered, the order passed in the main appeal would be rendered nugatory. The ratio laid down in the above said case cannot be made applicable in this case. The issue raised before this Court in that case is different than the one survives for consideration in this case.

26. In this case, the petitioner challenges the resolution dated 24.08.2015 electing the second respondent as the President of the first respondent council on the ground that there is no agenda and no valid notice was issued. It is seen from the minutes of the meeting dated 24.08.2015 that there was an agenda and it relates to election of a new President meaning thereby the post of President is vacant. According to the respondents, the petitioner was removed from the post of President not only on the basis of his letter of resignation but on the basis of the No Confidence Motion moved against him. Now, the second respondent has tendered his resignation on 15.02.2016 and the post of President of the first respondent council is presently occupied by the sixth respondent. While so, I hold that there is nothing survives for adjudication in this writ petition.

27. For all the above reasons, I do not find any reason to interfere with the resolution dated 24.08.2015 passed by the first respondent council. The writ petition is therefore dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rsh

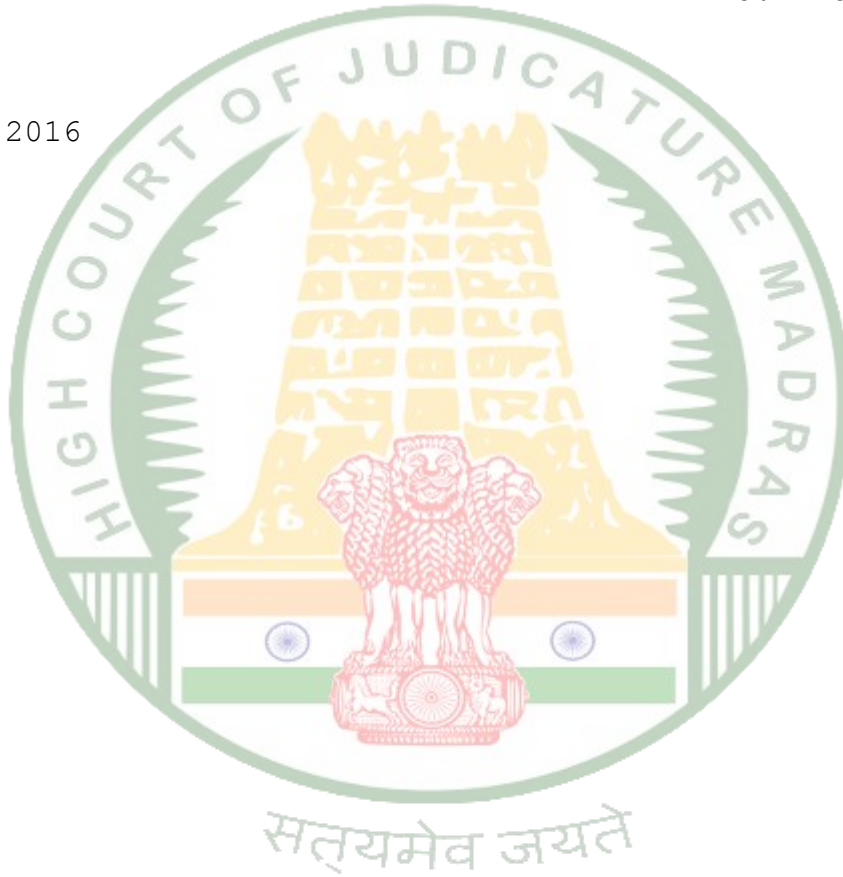
To

The Registrar
The Tamil Nadu Medical Council
New No.914, Old No.569
Poonamallee High Road
Arumbakkam, Chennai - 600 106

1 cc to Mr.K.P.Narayanan, Advocate, sr.29317
1 cc to Mr.G.Sankaran, Advocate, sr.29319

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kra 03.06.2016



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