

HON’BLE SRI JUSTICE SURESH KUMAR KAIT

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W.P. No. 35948 of 2014

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DATE: 16.08.2016

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Between:

Aaron Hospitals Pvt. Ltd. .. Petitioner

And

The State of Telangana
and two others .. Respondents

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ORDER:-

This writ petition is filed for the following substantive relief:

“...to issue an order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to order in Rc.No.75/DM&HO/RR/2014, dated 03.11.2014 passed by the 2nd respondent in cancelling the medical registration of Aaron Hospitals Pvt. Limited and quash the same.”

The brief facts of the case are that on 09.05.2014, the petitioner – Aaron Hospitals Private Limited submitted an application for registration of Allopathic Private Medical Care Services establishment with 15-bed hospital and fulfilled all the conditions which are required for registration of establishment of the institution. The petitioner appointed eight doctors apart from Dr.N.Venkateshwar Rao, Medical Director to attend on patients in the hospital. The petitioner – Hospital also appointed nursing staff consisting of ten, supporting staff consisting of four and office staff consisting of four members and the details of which were submitted to the 2nd respondent – District Medical and Health Officer along with the application. After inspection of the petitioner – Hospital, on 03.06.2014, the 2nd respondent issued Certificate of Registration of Allopathic Private Medical Care establishment which is valid up to 02.06.2019.

While so, on 06.10.2014, Dr.N.Venkateshwar Rao,

Medical Director of petitioner – Hospital addressed a letter to the 2nd respondent stating that due to some personal reasons, he is unable to continue as Medical Director and requested to delete his name from the responsibilities of the Hospital. After receipt of the resignation letter of Dr.N. Venkateshwar Rao, the petitioner - Hospital submitted an application dated 14.11.2014 to the 2nd respondent with a request to give one month's time to appoint a new Medical Director in place of Dr.N.Venkateshwar Rao. Subsequently, on 19.11.2014, the petitioner - Hospital appointed Dr.Pasala Ranjith Samuel as Medical Director in place of Dr.N.Venkateshwar Rao.

The learned counsel for the petitioner has submitted that two days after submission of the application dated 14.11.2014, the petitioner received a letter Rc.No.75/DM&HO/RR/2014, dated 03.11.2014 from the 2nd respondent wherein it is stated that the medical registration of the petitioner has been canceled in view of the request made by Dr.N.Venkateshwar Rao to relieve him from the responsibilities of Medical Director.

The learned counsel for the petitioner has further submitted that the 2nd respondent failed to notice that the petitioner – Hospital has followed all the norms and conditions laid down and also invested lot of amount on the Hospital by engaging doctors, nurses, sub-staff and office staff. The 2nd respondent should not have acted upon the resignation letter given by Dr.N.Venkateshwar Rao, Medical Officer since

he is the only employee of the petitioner - Hospital and the 2nd respondent should have given notice to the petitioner before cancelling its medical registration so that the Hospital would have made alternative arrangements for smooth running of the hospital.

The learned counsel has also submitted that by virtue of Section 7 of the Andhra Pradesh Allopathic Private Medical Care Establishments (Registration and Regulation) Rules, 2007 (for brevity "the Rules"), the 2nd respondent has no power to cancel the licence once granted by the competent authority.

The learned Government Pleader for Medical and Health appearing on behalf of the respondents, has submitted that the District Medical and Health Officer, Ranga Reddy District, vide communication dated 03.11.2014, informed the petitioner that in view of the request made by the Dr.Venkateshwar Rao to relieve him from the responsibilities of the post of Medical Officer, the petitioner's licence was cancelled and this fact was also brought to the notice of the authorities of the petitioner – Hospital. He has further submitted that the 2nd respondent received a notice / complaint dated 25.10.2014 from an Advocate, B. Ranjith Kumar whereby it is stated that the District Medical and Health Officer is absolutely barred from granting any new licence/permission to establish any hospital in this particular building without the express consent of Mr.Mohd. Ghousuddin, who is the owner of the Building. He warned the said officer that for any mal-administration in this context,

he shall be liable for criminal liability.

The learned Government Pleader has further submitted that vide Show Cause Notice dated 11.09.2014, the petitioner was asked to fix Fire Security within three months from the date of its undertaking, however, till date, the petitioner has not taken any steps in that direction. Moreover, another notice dated 07.11.2014 was received from the same Advocate, B.Ranjith Kumar, therefore, the 2nd respondent had no option but to cancel the medical registration of the hospital.

The learned Government Pleader has further submitted that the Government has power to cancel the registration of any hospital either *suo motu* or on receipt of a complaint from any corner. Therefore, the order dated 03.11.2014 is justified and passed on valid grounds.

Heard the learned counsel for both the parties and perused the material placed on record.

I note in the order dated 03.11.2014 that the facts noted above have not been mentioned, however, this communication is from the District Medical and Health Officer to the petitioner - Hospital wherein it is stated that inasmuch as Dr.N.Venkateshwar Rao, the Medical Director of the petitioner – Hospital, was unable to continue in the post of Medical Director, he requested to relieve him from the responsibilities of the post, and accordingly, the petitioner was informed regarding cancellation of its medical registration.

The facts stated in the counter affidavit and the

contentions put forth by the learned Government Pleader, are not reflected in the impugned order.

As per Section 7 of the Rules, registration can be cancelled/suspended on the following grounds:

“Suspension or Cancellation of Registration:

- a) The Registering Authority on receipt of reliable information that the applicant for registration has been convicted or has been censured by any judicial or competent authority in relation to his/her professional character or has been guilty of any misconduct or on a written complaint that a private medical care establishment has violated any of the terms and conditions of the registration or any of the given directions it was given or has contravened any of the provisions of the Act or these Rules, the Registering Authority after making enquiries thereto and after written explanation is called for from Establishment on the allegations leveled against Establishment may order suspension of the certificate or registration for such a period as it may think fit, if the Registering Authority is satisfied that a prima-facie case has been made out.
- b) The Registering Authority, immediately after suspending the Certificate of Registration shall send a registered notice to Establishment in writing in **Form VIII** informing the time, date and place at which the case will be heard by the Registering Authority. The registered notice shall be sent to the Establishment at least by giving 15 days time for hearing. The Registering Authority shall also direct the establishment to surrender their Certificate of Registration on or before date of hearing.
- c) The establishment shall be entitled to be represented either an authorized person or a legal practitioner.
- d) If the establishment does not represent either by authorized person or a legal practitioner, the Registering Authority may proceed with the documentary evidence available with it and determine the case and order cancellation of Certificate of Registration or revoke the suspension of the Certificate of Registration by recording the reasons. The said order has to be communicated to the Establishment within three days from the date of such order in the prescribed **Form IX** annexed to these rules.

It is to be taken note of that the impugned order dated 03.11.2014 does not indicate any of the reasons as prescribed in Rule 7 of the Rules. Moreover, no enquiry was conducted against the petitioner – Hospital while cancelling the registration certificate.

In view of the above, I have no hesitation to observe that merely on the complaint filed by the Advocate mentioned above, the 2nd respondent – authority has cancelled the registration certificate of the petitioner – Hospital without going through the details and without application of mind. It is also observed that concerning lapse or contravention of the terms and conditions of the licence, no show cause notice has been issued to the petitioner calling for explanation thereto which amounts to violation of principles of natural justice.

With the above observations, this writ petition is allowed setting aside the impugned order dated 03.11.2014 passed by the 2nd respondent. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

16.08.2016

bcj