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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2216/2016 & C.M.No.9555/2016

DR VANITHA MURALIKUMAR AND ORS Petitioners

Through Mr.Sudhir Nandrajog, Sr.Advocate
with Mr.Arjun Pant, Advocate.

versus

MINISTRY OF AYUSH Respondent

Through Mrs.Bharathi Raju, CGSC for UOI.
Mr.Ravi Sikri, Sr.Advocate with
Ms.Aishwarya Bhati, Advocate for
Dr.Ved Prakash Tyagi.

% Date of Decision: 15th March, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed challenging respondent's letters dated 10th March, 2016, whereby the Central Council of Indian Medicine (CCIM) has been restrained from carrying out any business until it has complied with Uttarakhand High Court's order dated 08th December, 2015 in W.P. No.1754 M/S 2013 in the case of *Dr.Ved Prakash Tyagi Vs. UOI & Ors.*, and restored the services of Dr. Ved Prakash Tyagi. The relevant portion of the impugned letters are reproduced hereinbelow:-

A. *"Subject :- Order dated 08.12.2015 of Hon'ble High Court of Uttarakhand in Writ Petition No. 1754 M/S of 2013 in the case of Dr. Ved Prakash Tyagi Vs UOI and Others.*

Sir,

I am to inform you that in W.P. No. 1754 of 2013 (M/S), the Hon'ble High Court of Uttarakhand at Nainital has passed an order dated 08.12.2015 in the case of Dr. Ved Prakash Tyagi Vs UOI and others.

In the above order clarifications were sought from Assistant Solicitor General of Uttarakhand for implementation the order dated 08.12.2015 vide this office letter dated 18.02.2016.

The Assistant Solicitor General of Uttarakhand vide letter dated 25.02.2016 has given the following clarifications:-

"I perused the entire judgment rendered in W.P. No. 1754 MS of 2013 in which the orders dated 06.05.2013, 07.05.2013, 09.05.2013, 19.07.2013 and 27.07.2013 were challenged and the Hon'ble Court allowed the Writ Petition Quashed all the orders by holding that the petitioner is a validly registered member with the Board of Indian Medicine Uttarakhand. It was further held by the Hon'ble High Court in the said judgment that all the consequential orders issued pursuant to the impugned orders also stands quashed. I also perused the notification dated 27th July, 2013 whereby, Dr. Ved Prakash Tyagi was deemed to have vacated the seat in the Central Council of Indian Medicine as he was ceased to be enrolled on the State Register and this notification is based upon the orders passed on 6th May, 2013 as amended by the order dated 07th May, 2013 which were quashed by the Hon'ble Court.

As pursuant to the judgment rendered by the Hon'ble High Court dated 08.12.2015 all the orders as assailed by the petitioner are quashed and in addition to this all the consequential orders were also quashed passed pursuant to the impugned order and therefore the judgment as rendered by the Hon'ble High Court dated 08.12.2015 has to be complied within its true spirit."

Since all the orders including consequential orders as assailed by the petition in the writ petition no. 1754 m/s of 2013 were

quashed including the notification dated 27th July, 2013 and therefore the status of the Petitioner has to be restored in compliance of the judgment as rendered by the Hon'ble High Court on 8th Dec, 2015 in the W.P. No. 1754 M/S of 2013, CCIM is, therefore, requested to implement the order dated 08.12.2015 of Hon'ble High Court of Uttarakhand, restoring the status of the petitioner as notified in the notification S.O. No. 2078(E) dated 13.09.2011 duly notified by Ministry of Health & FW, Deptt. of AYUSH to avoid contempt proceedings.”

(emphasis supplied)

B. “Subject :- Order dated 08.12.2015 of Hon'ble High Court of Uttarakhand in Writ Petition No. 1754 M/S of 2013 in the case of Dr. Ved Prakash Tyagi Vs UOI and Others.

I am directed to refer to the Ministry letter No. F.No. A.11019/01/14-Election Cell dated 10th March, 2016 on the above subject and to say that Central Council of Indian Medicine (CCIM) is request to implement the Hon'ble High Court's Order immediately as clarified in the said letter, a copy of which is enclosed.

No business may be carried out in the CCIM till the compliance of the said order.”

(emphasis supplied)

2. Learned senior counsel for petitioners states that the respondent does not have power under the Indian Medical Central Council Act, 1970 (hereinafter referred to as the ‘Act of 1970’) to issue the impugned letters. He further states that the impugned order has wide repercussions inasmuch as academic session of colleges has to commence shortly.

3. Mr. Ravi Sikri, learned senior counsel for Dr. Ved Prakash Tyagi has handed over a copy of the office memorandum dated 15th March, 2016

whereby Dr. Ved Prakash Tyagi has been restored as member of CCIM as well as its President. The relevant portion of the aforesaid office memorandum is reproduced hereinbelow:-

“Subject :- Order dated 08.12.2015 of Hon’ble High Court of Uttarakhand in Writ Petition No. 1754 M/S of 2013 in the case of Dr. Ved Prakash Tyagi Vs UOI and Others.

The undersigned is directed to refer to this Ministry’s two letters No. A.11019/01/14-Election Cell dated 10.03.2016 on the above subject and to inform that the Hon’ble High Court of Uttarakhand vide its judgment dated 08.12.2015 has allowed writ petition restoring the registration of Dr. V.P. Tyagi and quashed all the consequential orders.

2.It is clarified that as per the judgment of Hon’ble High Court of Uttarakhand, the de-notification of Dr. V.P. Tyagi from membership of CCIM and subsequent CCIM elections held for the post of President electing Dr. Vanita Murlikumar also stands quashed, hence status of Dr. Ved Prakash Tyagi stands restored as a member of CCIM as well as President of CCIM.”

4. Having perused the paper book, this Court finds that the Uttarakhand High Court has not only allowed the writ petition filed by Dr. Ved Prakash Tyagi and restored his appointment, but has also set aside all consequential orders issued pursuant to orders dated 06th May, 2013, 07th May, 2013, 09th May, 2013, 19th July, 2013 and 27th July, 2013.

5. No reason in the writ petition has been given for not complying with the order dated 8th December, 2015 passed by the Uttarakhand High Court. Though the learned senior counsel for the petitioners tried to explain the reason for the delay in implementation of the Uttarakhand High Court order dated 8th December, 2015, yet as the same is based on certain facts and events which are not mentioned in the writ petition, this Court does not take

cognizance of the same. In fact, even today the repeated prayer before this Court is that an Executive Committee meeting should be allowed to be held to consider implementation of Uttarakhand High Court order.

6. This Court has no doubt that the petitioners have filed the present writ petition with intent to either delay the implementation of the Uttarakhand High Court order dated 08th December, 2015 or to implement the same in accordance with their own interpretation. The conduct of the petitioners inspires no confidence. Consequently, this Court is of the opinion that the petitioners are not entitled to invoke the high prerogative discretionary remedy under Articles 226 and 227 of the Constitution.

7. After all, a party which defies binding orders of the Court and repeated directions of the Union of India to comply with a High Court judgment, cannot invoke the writ jurisdiction of another High Court. Accordingly, the present writ petition and the application are dismissed. However, it is clarified that the aforesaid observations are only in the context of disposal of the present writ petition. The said observations shall not be used or relied upon by either party in the appeal that has been filed by the petitioners challenging the order dated 08th December, 2015 passed by a learned Single Judge of the Uttarakhand High Court.

MANMOHAN, J

MARCH 15, 2016

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