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

Judgment delivered on: 14.09.2016

+ **W.P.(C) 5390/2016**

RAJESH K RANJAN

..... Petitioner

versus

DELHI MEDICAL COUNCIL

..... Respondent

Advocates who appeared in this case:

For the petitioner:

Mr K.C.Mittal and Ms Ruchika Mittal, Advocates.

For the Respondent:

Mr Praveen Khattar, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

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14.09.2016

W.P.(C) 5390/2016 & CM No.22488/2016(stay)

1. The petitioner has filed the present petition seeking quashing of order dated 11.04.2016 whereby the petitioner has been directed to stop practising modern scientific system of medicine (Allopathy), forthwith and to close down his physiotherapy clinic at C-1/23, Yamuna Vihar, Delhi-110053.

2. It is contended by the counsel for the petitioner that the petitioner is a qualified physiotherapist registered under the Delhi Council for Physiotherapy and Occupational therapy Act, 1997 and

has been engaged in the profession of providing assistance to patients in recovering from their various ailments by use of physiotherapy and occupational therapy.

3. It is contended that the petitioner has set up a Physiotherapy Centre and has been running the same for more than 18 years.

4. It is contended that the Centre is run under the guidance of doctors duly qualified and registered with the Delhi Medical Council and any consultation regarding allopathic medicine stream is provided by them only. It is denied that the petitioner is practising the modern scientific system of medicine.

5. It is contended that the impugned order dated 11.04.2016 insofar as it relates to closing down the physiotherapy clinic is beyond the purview and scope of the powers of the respondent – Delhi Medical Council.

6. The respondents have filed their counter-affidavits contending that the respondents have acted in accordance with Section 10(h) of the Delhi Medical Council Act, 1997 (hereinafter referred to as “the Act”) which empowers the Council to perform such duties and functions as are prescribed by the said Act.

7. It is contended that, it is obligatory on the respondent to ensure that no unqualified persons practices the modern scientific system of

medicine. It is further contended that the petitioner, in his physiotherapy clinic, had prescribed certain allopathic medicines on his letterhead. It is contended that the respondents have only directed closure of the physiotherapy clinic to ensure that the petitioner does not prescribe allopathic medicine or practice the modern scientific system of medicine.

8. Learned counsel for the respondent further submits that appropriate proceedings for breach of the provisions of the Act have already been initiated by the respondent.

9. The Act empowers the Medical Council to ensure that no unqualified person practices the modern scientific system of medicine.

10. Admittedly, the petitioner is not qualified to practice the modern scientific system of medicine and is not registered with the Delhi Medical Council and the petitioner cannot prescribe allopathic medicines, which only a qualified doctor can.

11. Since the petitioner is registered as a qualified physiotherapist with the Delhi Council for Physiotherapy and Occupational therapy, the petitioner cannot be retrained from carrying on the said profession provided the petitioner complies with the Rules and Regulations of the Delhi Council for Physiotherapy and Occupational therapy. The impugned order insofar as it directs closure of the physiotherapy clinic

of the petitioner is concerned, impinges upon the right of the petitioner to carry on his profession as a physiotherapist in accordance with law. This is not the purport of section 10(h) of the Act.

12. In my view, the action of the respondent in closing down the physiotherapy clinic cannot be sustained. The purpose of the respondent Delhi Medical Council can be achieved by permitting the petitioner to carry on the physiotherapy clinic with the condition that the petitioner shall not practice the modern scientific system of medicine from the said physiotherapy clinic. The petitioner shall ensure that the petitioner does not unauthorisedly or illegally practise or permit the practise of the modern scientific system of medicine from his clinic. The Petitioner shall ensure that in case any medicine is prescribed to the patients coming to the Clinic of the petitioner, the same is prescribed only by qualified doctors duly registered with the Delhi Medical Council.

13. The writ petition is disposed of in the above terms.

14. It is clarified that no opinion has been expressed on the merits of the proceedings initiated by the respondent against the petitioner for alleged breach of the provision of the Act, which proceedings shall be dealt with by the concerned authority/court in accordance with law, without being influenced by anything stated herein.

15. It is further clarified that this order has been in the peculiar facts

and circumstances of the present case and will not be construed as a precedent in respect of orders passed by the Delhi Medical Council for closure of clinics run by quacks.

SANJEEV SACHDEVA, J

SEPTEMBER 14, 2016
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