

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 WRIT PETITION NO. 6153 OF 2013

DR. PREMLATA GANPATRAO CHANDOLKAR (W/O ASHOK UMREKAR)
VERSUS
MAHARASHTRA COUNCIL OF INDIAN MEDICINE

...

Advocate for Petitioners : Mr. P. V. Mandlik, Senior
Advocate h/for Mr. Amol S. Gandhi
AGP for Respondent: Mrs. Vaishali Patil

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 7th February, 2017

ORDER:

1. Mr. Mandlik, the learned Senior advocate for the petitioner submits that the petitioner has registered herself under the Maharashtra Medical Practitioners Act, 1961 in the year 1985. The petitioner is also registered under the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PCPNDT Act). According to the learned Senior counsel, on or about 19.07.2011, the petitioner had applied for renewal. The Demand Draft was also sent. Again demand draft of Rs.200/- was sent on 21.08.2011. In the meantime, the petitioner was convicted under the provisions of PCPNDT Act, against which an appeal is filed and the same is pending. The sentence is suspended. The learned Senior Counsel submits that the

petitioner received show cause notice from the respondent Authority asking the petitioner to show cause as to why her registration should not be cancelled on the ground that the petitioner has sustained conviction under the provisions of PCPNDT Act. The petitioner replied the same. However, the impugned order came to be passed only on the ground that registration is not renewed.

2. The learned Senior Counsel submits that the grounds on which the show cause notice is issued and the impugned order passed are contrary to each other. In the show cause notice, the ground of non renewal was never raised and only on the ground of non renewal of registration, the respondent has cancelled the registration. The same is illegal. The learned counsel submits that the procedure under Section 23-A(b) of the Maharashtra Medical Practitioners Act has not been followed.

3. Mrs. Patil, the learned counsel appearing for the the respondent submits that the procedure under section 23-A(b) has been scrupulously followed. The notice has been published in the Gazette dated 30th May, 2006, showing that registration has not been

renewed under the Act, 1961. The learned counsel submits that as the petitioner has already sustained conviction under the PCPNDT Act and the said conviction is not suspended/stayed, the action is rightly taken.

4. It appears that the petitioner, in the year 2011, has deposited demand draft for the purpose of renewal. While passing the impugned order, the said aspect does not seem to have been taken into consideration.

5. Show cause notice issued is on the premise that petitioner has sustained conviction under the PCPNDT Act and on that count, why her registration should not be cancelled. Whereas the impugned order passed is based on the ground of non renewal of registration. The ground on which the impugned order is passed was not preceded with the show cause notice and directly an action has been taken.

6. Considering the above, we pass following order:

O R D E R

- (1) The Respondent Authority shall consider the application filed by the petitioner seeking renewal of registration/ restoration of

registration dated 27.06.2012. The said application be considered as an application for renewal of registration.

(2) In case there are some deficiencies, the petitioner shall comply with the same. The Authority shall take decision on the said application on its own merits, considering all the relevant aspects, expeditiously, preferably within three months.

(3) While taking decision on the said application, the impugned order would not be an impediment

7. Writ petition accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC