

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION NO. 24931 of 2017

ORDER :

Heard Sri O.Manohar Reddy, learned counsel for the petitioner, Sri V.V. Anil Kumar, learned Standing Counsel for respondent No.2 and learned Government Pleader.

2. The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the first respondent in not passing any orders on the stay application filed along with the appeal on 11.07.2017, against the order of the second respondent passed in APMC/DC/1763/Case No.20/2014, dated 01.07.2017, as illegal and arbitrary.

3. The averments in the writ affidavit would show that the petitioner who is a post graduate in Orthopedics, is running a hospital in the name and style of Sowjanya Hospital at Vijayawada and is also working as a consultant in two hospitals in Vijayawada including Manipal Hospital situated therein. The husband of the third respondent came to the hospital, in the year 2014, with some ailment, wherein he was informed that an operation has to be performed on his spinal cord. Since the husband of the third respondent is holding a white ration card, she was informed that the said operation would be conducted at Manipal hospital (Vijayawada), which is one of the recognized hospital under Arogyasri Scheme. Accordingly, the patient got admitted at Manipal hospital and an operation was performed on 03.03.2014. As the operation was a failure, the third respondent gave a complaint before the second respondent on 24.09.2014. Thereafter, the third respondent is said to have given an affidavit wherein it is stated that her husband accepted for second time operation, as he was a white card holder. The averments in the affidavit further disclose that the first operation was conducted by

the petitioner and the second operation was conducted by Dr.V.Shiva Kumar, which also failed. Aggrieved thereby, the third respondent gave a complaint against the Manipal Hospital. Basing on the report, the second respondent issued a notice on 31.01.2015, directing the petitioner to appear before the Committee on 24.01.2015, which was received on 18.01.2015. Thereafter, the petitioner approached the Committee and stated that the operation was performed with due consent from the wife of the patient. The grievance of the petitioner is that without following due procedure contemplated under the provisions of A.P.Medical Practitioners Registration Act (for short, 'the Act'), the name of the petitioner was removed from the list of registration for a period of one year. Challenging the removal order dated 24.10.2016, the petitioner is said to have preferred W.P.No.37222 of 2016, wherein this Court set aside the same and directed the second respondent to conduct fresh enquiry as per the procedure contemplated under the Act, duly providing an opportunity to the petitioner. Thereafter, charges were framed against the petitioner and after enquiry it was found the petitioner guilty of the charges leveled. Aggrieved thereby, petitioner filed an appeal under Section 25 of the Act, before the first respondent on 11.07.2017, with an application seeking stay of the order passed by the second respondent. The grievance of the petitioner is that though an appeal was preferred on 11.07.2017, till date no orders are passed either in the appeal or the stay application. Hence, the present writ petition came to be filed. The petitioner apprehends that if the said appeal is kept pending, the period for which the petitioner has been suspended would get lapsed and the appeal itself would become infructuous.

4. Learned Standing Counsel for the respondents would submit that the stay application filed along with the appeal may be directed to be disposed of within a period of six weeks, in accordance with law, which is not disputed by the learned counsel for the petitioner.

5. It is to be noted that in identical circumstances, this Court in W.P.No.26459 of 2005, passed the following order:

“...this Court is of the considered opinion that instead of again remanding the matter, it would be in the interest of justice to stay dispossession insofar as land in Survey Nos.108,109,111,116 and 118 of Saidabad Village and Mandal, Hyderabad, and further direct the second respondent to dispose of the appeal filed by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.”

6. Having regard to the submissions made across the Bar and taking into consideration the judgment referred to above, the writ petition is disposed of directing the first respondent to either dispose of the interim stay application or the appeal filed by the petitioner, against the order dated 01.07.2017, passed in APMC/DC/1763/Case No. 20/2014, within a period of six weeks from the date of receipt of a copy of this order, in accordance with law. Till such time, the order dated 01.07.2017, shall remain stayed. No costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.07.2017
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