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

+ **W.P.(C) 397/2017**

**ASSOCIATION OF INTEGRATED MEDICAL
GRADUATES, DELHI**

..... Petitioner

Through: Mr Abhishek Kumar and Mr Amit
Bhardwaj, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms Anany]aya Sachdeva, Advocate
for Mr Ravi Prakash, CGSC and Mr
Farman Ali, Advocates for R-1.
Mr Devesh Singh, ASC, GNCTD
with Ms Neelam Khoiya, Advocates
for R-2 & R-5.
Ms Tasneem Ahmadi and Ms Shubhi
Khare, Advocates for R-4.
Mr T. Singhdev, Advocate for R-
6/MCI.
Mr Pratyush Shrivastava and Mr
Gourav Singh, Advocates for
respondents.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.11.2017

1. The petitioner is a Society registered under the Societies Registration Act, 1860. The petitioner claims that its members are graduates of integrated medicine. The petitioner claims that in or around 1960, a five year degree course known as 'Bachelor of Indian Medicine and Surgery' which was

commonly known as Integrated Medical Course was offered to various students. The said course included training both in Allopathic and in Ayurvedic Discipline of Medicine. It is stated that the integrated medical courses were discontinued after 1977 and therefore, the number of doctors who had graduated in the said course are limited; only about 30,000 doctors remain in India and out of which only a few hundred of them are located in the National Capital Territory of Delhi. The petitioner asserts that these doctors have been offering affordable health care to the poorest of the poor.

2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the Union of India and the Government of NCT to provide a separate State Medical Register for doctors of integrated medicine since they are not entitled to be entered as doctors in the Indian Medical Register or the State Medical Register maintained under the Indian Medical Council Act, 1956. In substance, the petitioner seeks that its members be permitted to practice Allopathic Medicine (Modern Scientific System of Medicine). It is seen that this question was considered by a Division Bench of this Court in ***Delhi Medical Association v. Principal Secretary (Health) and Ors: 2016 (229) DLT 322***. Although, the petitioner was not a party to the said petition, the said decision was rendered in a Public Interest Litigation (PIL) seeking directions to ensure that no practitioner of Indian System of Medicine or of Homeopathic Medicine Practices Allopathic System of Medicine by prescribing Allopathic Medicines. The petitioner therein also impugned Section 2(h) of the Delhi Bharatiya Chikitsa Parishad Act, 1998, which defined the term “Integrated Medicine”. The parties in the said PIL also relied on the decision of the Supreme Court in ***Dr Mukhtiar***

Chand & Ors. v. State of Punjab & Ors: (1998) 7 SCC 579 (which is also relied upon by the petitioner in this case). The Court in ***Delhi Medical Association*** (*supra*) after considering the rival contentions, allowed the petition. The operative part of the said decision reads as under:-

“35. We thus allow this petition-

(A) By declaring that no practitioner of Indian System of Medicine or holding a qualification as listed in the Schedule to the Indian Medicine Central Council Act, 1970, even if it be of in integrated medicine as defined in Section 2(h) of the Delhi Bharatiya Chikitsa Parishad Act, 1998, is entitled to practice modern scientific system of medicine as defined in the Indian Medical Council Act, 1956 read with Indian Medical Degrees Act, 1916 and as has come to be known as Allopathic system of medicine.

(B) By directing all the authorities concerned with enforcement of the provisions of the Indian Medical Council Act, 1956, Delhi Medical Council Act, 1997, Indian Medicine Central Council Act, 1970 and the Delhi Bharatiya Chikitsa Parishad Act, 1998 and/or entrusted with the task of preventing persons not holding qualification as mentioned in the Schedules of the Indian Medical Council Act, 1956 from practicing modern scientific system of medicine, to not allow any person holding qualification in Indian Medicine as described in the Schedule to the Indian Medicine Central Council Act, 1970, even if holding a degree in integrated course as defined in the Delhi Bharatiya Chikitsa Parishad Act, 1998, from practicing modern scientific system of medicine.

(C) By declaring that Section 2(h) of the Delhi Bharatiya Chikitsa Parishad Act, 1998 or any other provision thereof or of the Indian Medicine Central Council Act, 1970 does not permit any person holding qualification in Indian Medicine as prescribed in the Indian Medicine Central Council Act, 1970 even if a degree in integrated course to practice modern

scientific system of medicine in terms of Indian Medical Council Act, 1956 read with Indian Medical Degrees Act, 1916 and Delhi Medical Council Act, 1997.

(D) By declaring that the Notification dated 10th February, 1961 of the Delhi Government issued in pursuance to Rule 2(ee) of the Drugs and Cosmetics Rules, 1945 does not entitle any person not holding a qualification listed in the Schedules to the Indian Medical Council Act, 1956 and whose name is not entered in the State Medical Register under the Delhi Medical Council Act, 1997 to prescribe Allopathic drugs.

(E) By declaring that the Notification dated 19th May, 2004 of the Central Council of Indian Medicine does not entitle the practitioners of Indian Medicine within the meaning of the Indian Medicine Central Council Act, 1970, even if holding degree in integrated medicine within the meaning of the Delhi Bharatiya Chikitsa Parishad Act, 1998 to practice modern scientific system of medicine / Allopathic system of medicine within the meaning of Indian Medical Council Act, 1956 read with Indian Medical Degrees Act, 1916.”

3. In view of the aforesaid decision, the relief as sought for by the petitioner cannot be granted. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

NOVEMBER 24, 2017
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