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

+ **W.P.(C) 9015/2017**

DR. RAJIV KUMAR GUPTA

..... Petitioner

Through

versus

MEDICAL COUNCIL OF INDIA AND ANR. Respondents

Through: Mr T. Singhdev, Ms Puja Sarkar, Ms
Michelle Biakthansangi Das and Mr
Tarun Verma, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.10.2017

CM No. 36876/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 9015/2017 & CM No. 36877/2017

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 21.08.2017 passed by the Medical Council of India (hereafter 'MCI'), whereby the petitioner's name was directed to be removed from the Medical Register for a period of three years. The principal allegation against the petitioner is that he had signed a declaration form indicating that one Dr Khursheed Anwar was employed as an Associate Professor in the department of pharmacology with Sri Venkateshwara Institute of Medical Sciences. This declaration was apparently given in context of an application for commencement of medical college for the academic

year 2015-16.

3. A plain reading of the impugned order indicates that the Ethics Committee of MCI had found that Dr Khursheed Anwar was working with Jawaharlal Nehru Medical College regularly since 18.05.2011 and that Sri Venkateshwara Institute of Medical Sciences had submitted a fake and forged document showing him as a member of its teaching faculty.

4. Mr Singhdev, learned counsel for the MCI handed over a copy of the declaration form, which indicates the details required to be submitted in respect of a faculty member(s) of a medical college, prior to inspection. The said form has to be signed by the faculty member and counter signed by the Director/Dean/Principal. The said form also bears the endorsement by the Director/Dean/Principal that the certificates and documents submitted by the candidate are found to be correct and authentic.

5. It is stated that the said declaration form submitted in respect of Dr Khursheed Anwar had been counter signed by the petitioner and had been found to be forged and untrue. Mr Singhdev submitted that once it was found that the documents submitted had been forged, the guilt of the petitioner was also established.

6. Mr Singhdev also pointed out Dr Khursheed Anwar was shown as appointed on 01.10.2014; the inspection was conducted on 13.10.2014;

and immediately thereafter (on 22.10.2013) Dr Khursheed Anwar was shown to have resigned from this post. He submitted that this is a *modus operandi* employed by medical colleges seeking permission to show the existence of a faculty of a higher strength than that employed with the medical college.

7. Be that as it may, it is not disputed that the impugned order has been passed without issuing a Show Cause Notice to the petitioner. This Court finds that to be a fatal flaw in the decision making process. It is trite law that a person against whom an adverse order is proposed to be passed must be given an adequate notice and an opportunity to meet the case set up against him. In the present case, the petitioner was not afforded any opportunity to meet the allegations against him. He also had no opportunity to persuade MCI to impose a reduced punishment. The impugned order is thus, plainly, opposed to the principles of natural justice and cannot be sustained.

8. In view of the above, the impugned order is set aside leaving it open to the MCI to issue an appropriate Show Cause Notice and take such action as it deems fit after hearing the petitioner.

9. It is clarified that this Court has not expressed any opinion as to the merits of the allegations and nothing stated in the present order should be construed as such. Nothing stated in this order would preclude either party from asserting their respective rights and contentions.

10. The petition is disposed of.

OCTOBER 13, 2017
MK

VIBHU BAKHRU, J