

\$~1

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

+ **W.P.(C) 11948/2016**

ANANT SHARMA

..... Petitioner

Through Mr Ashish Mohan, Mr Vivek Bishnoi,
Advocates.

versus

MEDICAL COUNCIL OF INDIA AND ORS Respondents

Through Mr T. Singhdev, Ms Manpreet Kaur,
Ms Amandeep Kaur, Ms Puja Sarkar, Mr Tarun
Verma, Mr Abhijit Chakravarty, Advocates for
R1/MCI.

Mr Praveen Khattar, Advocate for DMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

06.07.2018

CM No. 15799/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

REVIEW PET. 173/2018 & CM 47087/2016

3. The petitioner has filed the present petition, *inter alia*, seeking review of the order dated 22.11.2017 passed by this Court in W.P. (C) 11948/2016, whereby the petitioner's petition assailing the order dated 18.11.2016 passed by the Medical Council of India (MCI) was rejected. The MCI had upheld the decision of the Delhi Medical Council (DMC) finding the petitioner guilty of medical negligence and imposing the punishment of removal of his

name from the Medical Register for a period of one month.

4. The petitioner claimed that he had not treated the patient in question (Master Bilal) when he was brought to Hindu Rao Hospital. It is the petitioner's case that there were two doctors on duty on the relevant date and the patient was treated by the other doctor and not by him. The DMC had rejected the said contention, as the mother of the patient had identified the petitioner as the treating doctor.

5. This Court found no reason to interfere with the aforesaid decision of the MCI given the limited scope of judicial review in the present proceedings.

6. The learned counsel appearing for the petitioner submits that the hospital has a practice of filling in the emergency card which bears the details of the patient and the signatures of the Medical Officer (MO). He submitted that the emergency card in this case would also establish the identity of the Medical Officer (the doctor) who had treated the patient during the early hours of 02.05.2014. He submitted that since the emergency card relating to the patient had not been produced, the order dated 22.11.2017 was required to be reviewed.

7. This Court finds no ground of review the decision dated 22.11.2017, as all the aforesaid contentions were considered on that date. This Court had also observed that the scope of judicial review under Article 226 of the Constitution of India is limited and unless the court finds any flaw in the decision making process or finds that the conclusions drawn by the authority are arbitrary or based on extraneous considerations, no interference would be warranted. In the present case, the DMC as well as the MCI had examined the relevant material and there was sufficient ground for them to

believe that the petitioner had in fact treated the patient in question.

8. The emergency card may also be one of the factors that could indicate as to the doctor who had treated the patient; however, even that would not be a conclusive evidence of the same.

9. The learned counsel appearing for the petitioner states that the said issue is also involved in other proceedings and the observations made by this Court in the order dated 22.11.2017 are likely to prejudice the petitioner in those cases. The said apprehension is unfounded as the standard of proof that is required to be met in the criminal proceedings is materially different than the standard to be considered by a professional regulatory body charged with the function of maintaining professional standards.

10. In this view, it is clarified that the observations made by this Court would not prejudice the petitioner in other proceedings.

11. The petition is disposed of. The pending application also stands disposed of.

VIBHU BAKHRU, J

JULY 06, 2018

pkv