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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1039/2019 & CM APPL. 4680/2019,**
22398/2019, 23146/2019

DR. P. K. GUPTA

..... Petitioner

Through Mr Rajesh Pathak, Mr Abhishek
Chakraborty, Mr Sachin Gupta, Advocates.

versus

DELHI MEDICAL COUNCIL AND ANR.

..... Respondents

Through Mr Praveen Khattar, Advocate for
DMC/R1 with LDS Uppal, Asstt. Secretary DMC.
Mr T. Singhdev, Mr Tarun Verma, Ms Biakman
Sangi Das, Ms Puja Sarkar, Mr Abhijit, Advocates
R2/MCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.08.2019

1. The petitioner has filed the present petition impugning an order dated 09.05.2017 passed by Delhi Medical Council (DMC), whereby DMC had accepted the recommendations of the Disciplinary Committee to initiate prosecution against the petitioner under Section 15 (3) of the Indian Medical Council Act, 1956.
2. It is the petitioner's case that since he was not registered with DMC, DMC would have no jurisdiction to take any punitive or disciplinary action against the petitioner. It was also pointed that DMC had passed an order dated 02.06.2016 debarring the petitioner from practicing modern scientific

system of medicine in NCT of Delhi for a period of 30 days. It is alleged that the petitioner had not complied with the said order and consequently DMC had filed a criminal complaint against the petitioner. In addition to the aforementioned proceedings resulting in the aforesaid orders dated 02.06.2016 and 09.05.2017, there are also other proceedings pending before Medical Council of India (MCI) relating to the appeals preferred against the said orders.

3. The petitioner had also challenged the order dated 02.06.2016 by way of a writ petition – W.P. (C) No. 1551/2019 – which was dismissed by this Court by an order dated 15.02.2019. It is stated that the petitioner has also preferred an appeal before the Division Bench against the said order (***LPA No. 130/2019*** captioned ***Dr. P.K. Gupta v. Delhi Medical Council & Anr***) which is pending consideration before the Division Bench of this Court.

4. It is now pointed out that the petitioner has voluntarily sought registration with DMC and has subjected himself to the jurisdiction of the DMC.

5. The learned counsel appearing for the petitioner states, on instructions, that DMC would now have jurisdiction to proceed against the petitioner and the entire controversy can be put to rest if the orders dated 09.05.2017 and 02.06.2016 are set aside and the matter is remanded to DMC to consider afresh after affording the petitioner an opportunity to be heard.

6. The said course of action commends to this Court, as it would not only enable DMC to take such disciplinary action, as may be warranted, but it would also afford the petitioner full opportunity to contest the allegations made against him.

7. Mr Khattar, learned counsel appearing for DMC also concurs with the

aforesaid suggestion.

8. In view of the above, the order dated 02.06.2016 and 09.05.2017 passed by DMC and consequential proceedings initiated pursuant thereto are quashed. This would also include the prosecution launched against the petitioner at the instance of DMC.

9. Consequently, the appeals preferred before MCI also do not survive.

10. The petitioner shall treat the impugned orders dated 09.05.2017 and 02.06.2016 as show cause notices and submit a reply to DMC within a period of three weeks from today. DMC shall consider the same and take an appropriate decision after affording the petitioner an opportunity to be heard. In the event DMC proposes to take into account any material which is not reflected in the orders dated 09.05.2017 and 02.06.2016, it shall give due notice of the same to the petitioner.

11. All rights and contentions of the parties regarding the merits of the contentions are left open. However, the petitioner's challenge to the jurisdiction of DMC to initiate disciplinary proceedings is closed.

12. The petition is disposed of with the aforesaid directions. This order is passed with consent of the parties. The pending applications are also disposed of.

13. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

AUGUST 28, 2019

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