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

+ **W.P.(C) 1551/2019 & CM Nos.7139/2019, 7140/2019 & 7141/2019**

DR P K GUPTA

..... Petitioner

Through: **Dr M. C. Gupta with Mr Ritesh Kumar Pandey, Advocates.**

versus

DELHI MEDICAL COUNCIL & ANR Respondents

Through: **Mr Praveen Khattar, Advocate for R-1/DMC with Mr LDS Uppal, Assistant Secretary, DMC. Mr T. Singhdev, Mr Tarun Verma, Ms Michalle B. Das, Ms Puja Sarkar, Ms Amandeep Kaur and Mr Abhijit Chakrawarty, Advocates.**

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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15.02.2019

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning an order dated 02.06.2016 passed by respondent no.1 (DMC), whereby the petitioner has been debarred from practising modern scientific system of medicines in NCT of Delhi.

2. A perusal of the order indicates that the same has been passed pursuant to a complaint that was filed by one Mr Ritesh Panwar. The allegations made by the complainant had not been controverted by the

petitioner. He had also not appeared before the DMC.

3. However, the petitioner had made a request for removal of his name from the Delhi Medical Council Register. He has also not applied for renewal of the same and, accordingly, his name has been removed from the Delhi Medical Council Register with effect from 28.02.2016.

4. The petitioner has filed an appeal against the said order, which is pending before the Medical Council of India (MCI).

5. The learned counsel appearing for the petitioner has assailed the impugned order on a solitary ground that the punishment for debaring the petitioner from practicing modern scientific system of medicine in Delhi is not prescribed in the statute.

6. The aforesaid contention is unmerited. If a medical practitioner is found guilty of medical negligence, he can be inflicted with a punishment of removal of his name from the medical register. The consequence of the same is that he is debarred from practicing as a medical practitioner in NCT of Delhi. Notwithstanding the above, it is seen that in the present case, the petitioner's name had already been removed from the Delhi Medical Council Register on account of the petitioner's own violation.

7. It is in the aforesaid context that the DMC has debarred the petitioner from practicing modern scientific system of medicines in NCT of Delhi. This is in conformity with the Section 15(6) of the Delhi Medical Council Act, 1997, which reads as under:-

“15. Preparation of Register

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- (6) Any person servicing or practising modern scientific system of medicine in Delhi shall be registered with the Council under this Act. Without registration with Council any person though qualified in modern scientific system of medicine, shall be liable for action as specified by the Council.”

8. The petitioner, having preferred to remove his name from the Register maintained by the DMC, cannot now insist and be permitted to practice in the NCT of Delhi.

9. The learned counsel for the petitioner contends that since the penalty has not been prescribed in the Delhi Medical Council Act, 1997, he is at liberty to practice in NCT of Delhi, notwithstanding that his name is not appearing in the Register maintained by DMC. Mr Khattar disputes the contention that a penalty is not prescribed for violation of Section 15(6) of the said Act. However, notwithstanding the above, the petitioner’s contention is unmerited. The language of Section 15(6) of the Delhi Medical Council Act, 1997 is clear, and the petitioner is proscribed from practicing modern scientific medicines without his name placed on the Medical Register maintained by the DMC. The question as to what other penal consequences can be inflicted on a person who violates this provision is a separate matter. Plainly, the petitioner cannot be heard to say that since a penalty has not been prescribed for an offending act, he can continue to do commit the same.

10. Insofar as the findings of the DMC regarding the allegation made

against the petitioner are concerned, the petitioner has already filed an appeal before the MCI. And, this Court has no reason to assume that the same will not be duly considered.

11. The petition is, accordingly, dismissed. All pending applications are disposed of.

FEBRUARY 15, 2019
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VIBHU BAKHRU, J

