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

+ **W.P.(C) 4593/2019**

DR. SHAJAHAN YOOSAG SAHIB

..... Petitioner

Through: Mr Shoeb Alam, Mr Apoorva
Bhumesh, Ms Madhavi Khare, Mr
Ujjwal Singh and Mr Mojahiddin,
Advocates.

versus

MEDICAL COUNCIL OF INDIA AND ORS. Respondents

Through: Mr T. Singhdev, Mr Tarun Verma,
Ms Arunima Pal, Ms Puja Sarkar and
Ms Amandeep Kaur, Advocates for
R-1/MCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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01.05.2019

CM No.20455/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 4593/2019 & CM No.20426/2019

2. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a. Issue a suitable Writ Order or Direction declaring that MCI has power to grant interim stay of the effect and operation of orders in Appeals under Regulation 8.7, 8.8 of the Indian Medical Council [Professional Conduct, Etiquette and Ethics] Regulations 2002 and direct the MCI to grant stay of effect and operation of the Order dated 10-11-2017 passed by the Travancore Cochin

Medical Council in Complaint bearing No.A2.11876/2017/MC/COMPL, till the final disposal of the Appeal bearing No. 154/2017 by the Medical Council of India; or

- b. Grant ex-parte stay of the effect and operation of the Order dated 10-11-2017 passed by the Travancore Cochin Medical Council in Complaint bearing No.A2.11876/2017/MC/COMPL, till the final disposal of the Appeal bearing No. 154/2017 pending before Medical Council of India.”

3. The petitioner’s grievance, essentially, stems from the order dated 10.11.2017 passed by the Travancore Cochin Medical Council, directing the removal of the petitioner’s name from the Medical Register for Modern Medicine maintained by the said Council. The petitioner has filed an appeal against the said order on 21.02.2018. The petitioner claims that it had also filed an interim application seeking an interim stay of the order passed by the Travancore Cochin Medical Council, which is impugned before the MCI. The interim stay has not been granted and this is the principal reason for the petitioner to approach this Court.

4. The petitioner relies on the order dated 11.04.2018 passed by this Court in ***Dr Rajan Luthra v. Medical Council of India & Ors.: W.P.(C) 3518/2018***, whereby the punishment imposed upon the petitioner herein (Dr Rajan Luthra) had been stayed, pending the consideration of an appeal by MCI. The petitioner has also referred to a few other orders passed in similar terms. A plain reading of the petition indicates that the petition is directed towards obtaining a similar order for the stay of the order passed by the State Medical Council. In the alternative, the petitioner has sought for declaration that MCI has the power to consider the application for interim

stay, and a further direction to MCI to stay the order impugned before it.

5. It is pointed out by Mr Singh Dev, the learned counsel appearing for the MCI that the petitioner has not disclosed the order dated 22.02.2019 passed by the Kerala High Court in W.P.(C) 9235/2018. It is stated that the petitioner had approached the High Court of Kerala impugning the order dated 10.11.2017 (which is the order impugned by the petitioner before the MCI). He has also handed over a copy of the said order. Although, the said order does not indicate that whether the petitioner had sought any interim stay, however, it is not disputed that since the petitioner had challenged the order dated 10.11.2017, the petitioner had also sought interim relief from the said court.

6. It is also relevant to mention that the principal allegation against the petitioner is that he had obtained registration with the Travancore Cochin Medical Council of Modern Medicines, on the basis of document pertaining to registration with MCI, which is alleged to be forged.

7. After hearing the learned counsel for the parties, it is apparent that the petitioner has concealed material facts. Although, it is mentioned in the petition that the petitioner had filed a writ petition before the Kerala High Court, however the list of dates and synopsis do not disclose the same.

8. There is little doubt that the petitioner has filed the present petition as he had failed to obtain relief from the Kerala High Court. Although, the petitioner had obtained orders from the Kerala High Court for the disposal of the appeal filed before the MCI, he was not granted any relief regarding the removal of his name from the Medical Register.

9. It is apparent that this is a case of forum shopping and such petitions should be discouraged.

10. The petitioner's contention that the orders passed in the case of ***Rajan Luthra*** (*supra*) and other petitions have been passed in similar facts, is erroneous. In those cases, the punitive measure had been imposed on account of medical negligence and, therefore, the removal of name of the medical practitioners was for a limited period, and therefore implementation of the punishment imposed on them could be deferred. However, in this case, the allegation is that the registration obtained by the petitioner is on the basis of a forged document. Clearly, in this case, no interim order can be passed in favour of the petitioner.

11. The petition is, accordingly, dismissed with costs quantified at ₹25,000/-. The cost shall be paid to the respondent within a period of two weeks, from today. The pending application is disposed of.

12. It is clarified that this order shall not preclude the petitioner from approaching the Kerala High Court for any further order that the petitioner may desire.

VIBHU BAKHRU, J

MAY 01, 2019
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