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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5041/2018 and CM APPL. 19405-19406/2018**

DR YAMSANI SRINIVAS

..... Petitioner

Through: Mr Rudra Kahlon, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Vikas Singh, Senior
Advocate with Mr T. Singhdev,
Ms Biakthansangi Das, Ms Puja
Sarkar, Mr Tarun Verma and
Mr Abhijit Chakraborty,
Advocates for R-2/MCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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15.07.2019

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning the action of the Medical Council of India (MCI) to revoke the registration of the additional qualification granted to the petitioner. It is stated that the petitioner is a citizen of India and had completed his MBBS Degree Program from Ukraine.

2. The learned counsel appearing for the petitioner states that the petitioner is practicing as an MD in Scotland, United Kingdom. The petitioner claims to have completed the said course from the Membership of Royal College of Emergency Medicine, United Kingdom (MRCEM). He had applied for registration of the said

qualification as an additional qualification under Section 26 of the Indian Medical Council Act, 1956 (hereafter ‘the Act’). Section 26 is set out below:-

“26. Registration of additional qualification.—(1) If any person whose name is entered in the Indian Medical Register obtains any title, diploma or other qualification for proficiency in sanitary science, public health or medicine, which is a recognised medical qualification, he shall, on application made in this behalf in the prescribed manner, be entitled to have an entry stating such other title, diploma, or other qualification made against his name in the Indian Medical Register either in substitution for or in addition to any entry previously made.

(2) The entries in respect of any such person in a State Medical Register shall be altered in accordance with the alterations made in the Indian Medical Register.”

3. MCI granted the said registration to the petitioner on 08.04.2016. The same has been revoked by MCI on the ground that the petitioner is not entitled to registration in the United Kingdom in the concerned speciality on the basis of the said additional qualification and therefore, the same cannot be recognised in terms of Section 13 of the Act.

4. Sub-sections (3) and (4) of Section 13 of the Act are relevant and are reproduced below:

“(3) The medical qualifications granted by medical institutions outside India before such date as the Central Government may, by notification in the Official Gazette, specify which are included in Part II of the Third Schedule shall also be recognised medical qualifications

for the purposes of this Act, but no person possessing any such qualification shall be entitled to enrolment on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification, or if he has not undergone any practical training in that country he has undergone such practical training as may be prescribed.

(4) The Central Government, after consulting the Council, may, by notification in the Official Gazette, amend Part II of the Third Schedule so as to include therein any qualification granted by a medical institution outside India, which is not included in the Second Schedule.

Provided that after the commencement of the Indian Medical Council (Amendment) Act, 2001, no such amendment shall be made in Part II of the Third Schedule to include any primary medical qualification granted by any medical institution outside India:

Provided further that nothing contained in the first proviso shall apply to inclusion in Part II of the Third Schedule any primary medical qualification granted by any medical institution outside India to any person whose name is entered in the Indian Medical Register.

Explanation- For the purposes of this sub-section, “primary medical qualification” means any minimum qualification sufficient for enrolment on any State Medical Register or for entering the name in the Indian Medical Register.”

5. The Central Government has, in exercise of powers granted under Sub-section (4) of Section 13 of the Act, issued a notification dated 07.03.2008, amending Part-II of the Third Schedule to the Act,

to recognise certain post graduate qualifications. This included “*All post graduate medical qualifications awarded in United Kingdom as recognised for enrolment as medical practitioners in the concerned specialities in that country*”.

6. In view of the above, the only controversy required to be addressed is whether the additional qualification of MRCEM, as acquired by the petitioner, is recognised as an additional qualification for a practitioner to be registered in the concerned speciality in the United Kingdom.

7. The petitioner relies upon the letter dated 04.02.2019 issued by the General Medical Council (GMC), United Kingdom, confirming that “*MCEM/MRCEM provides sufficient evidence of a doctor’s knowledge, skills and experience for the purposes of full registration (under Section 21B of the Medical Act 1983 (as amended))*”.

8. Notwithstanding the aforesaid clarification, it is pointed out that the petitioner, in fact, is not registered in the United Kingdom for the concerned specialty on the basis of the aforesaid qualification of MRCEM. It is suggested that this is so because, the petitioner has acquired the said qualification by offshore training at St. Johns Medical College - Hospital of Bangalore. It is stated on behalf of MCI that since the petitioner had acquired the said qualification in a country other than the United Kingdom, the same would not be recognised in the United Kingdom.

9. Mr Vikas Singh, learned senior counsel appearing for MCI has also pointed out that the petitioner is, in fact, registered as a medical

practitioner in the United Kingdom and if the said qualifications were sufficient to be recognised as additional qualifications for the concerned specialty, the petitioner would have been granted such registration in the United Kingdom.

10. Since it is not disputed that the petitioner is not registered in the United Kingdom in respect of the additional qualification of MRCEM, this Court does not find any infirmity with the decision of MCI. The burden to establish that the additional qualification acquired by the petitioner entitles the petitioner to be registered as a medical practitioner in the concerned specialty, rests with the petitioner. And, in this case, the same has not been discharged.

11. It is, however, clarified that if the petitioner submits sufficient proof to establish that the additional qualification of MRCEM acquired by him through training in India is sufficient to entitle him for being registered as a practitioner in the concerned specialty in the United Kingdom on the strength of the said qualification, MCI shall recognise the same in accordance with Section 13(3) of the Act.

12. The petitioner is at liberty to apply afresh to MCI after securing the necessary evidence/material in this regard.

13. The petition is disposed of in the aforesaid terms. All the pending applications are also disposed of.

VIBHU BAKHRU, J

JULY 15, 2019
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