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

+ W.P.(C) 5938/2015 and CM APPL. 10759/2015

DR MANOJ KUMAR DHINGRA

..... Petitioner

Through: Mr Arun Bhardwaj and Mr Aditya
Sharda, Advocates.

versus

SECRETARY MEDICAL COUNCIL OF
INDIA & ORS

..... Respondents

Through: Mr T. Singhdev and Mr Tarun
Verma, Advocates for R-1/MCI.

Mr Praveen Khattar with Mr Bapi
Das, Advocates for R-2 along with
L.D.S. Uppal, Assistant Secretary,
DMC.

Mr Naushad Ahmed Khan, ASC
(Civil), GNCTD with Ms Manisha
Chauhan, Advocate for R-3 & 4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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01.08.2019

1. At the outset, Mr Bhardwaj, learned counsel appearing for the petitioner states that the petitioner has expired and, therefore, the punishment imposed by the Medical Council of India (MCI) would be of no relevance except that the same would work to the detriment of the petitioner's family, as far as receiving the petitioner's terminal benefits, is concerned.

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 15.05.2015 passed by the Medical Council of India (MCI) and

the order dated 21.10.2013 passed by the Delhi Medical Council (DMC).

3. The controversy involved in the present petition relates to the reports submitted by the petitioner in respect of one Sh. Yogender Prasad who is employed with Delhi Police. The genesis of the controversy stems from a physical brawl between Sh. Yogender Prasad and one Sh. Randhir Singh (who is also employed with Delhi Police). The said fight took place on 21.11.2010. As a result of the said brawl, Sh. Yogender Prasad suffered certain injuries and was brought to the Casualty / Emergency of the Sanjay Gandhi Memorial Hospital. The petitioner was a medical doctor and was employed at the said hospital. However, at the relevant time, he did not examine Sh. Yogender Prasad as he was not on duty. Yogendra Prasad was examined by other doctors. The petitioner had examined Sh. Yogendra Prasad on subsequent occasions.

4. The allegation against the petitioner is that he had described the injuries suffered by Yogender Prasad as simple injuries in his initial report dated 26.11.2010 but had subsequently enhanced the same to grievous injuries in a report submitted on 10.12.2010. It is alleged that the petitioner had made such a change for extraneous reason and in that context the petitioner had misconducted himself.

5. A complaint in this regard was filed before DMC and by an order dated 21.10.2013, DMC found that the petitioner's conclusion was arrived at without examining the patient and sufficient material was not available on record for the petitioner to conclude that that nature of injury in that case was grievous.

6. DMC concluded that the petitioners' conduct was unprofessional conduct and decide to issue a warning. He was also directed to attend the Department of Forensic Medicine for one week and retrain himself on injuries severity evaluation and submit a compliance report.

7. Aggrieved by the same, respondent no.5 (Sh. Randhir Singh) who had caused the injuries suffered by Sh. Yogender Prasad, filed an appeal before MCI. MCI examined the said appeal and gave repeated opportunities to the petitioner to provide sufficient material. In his defence, the petitioner stated that he had assessed Sh. Yogender Prasad's injury as grievous after perusal of the OPD Card. He asserted that his opinion was *bona fide* and on the basis of material available on record. He, however, conceded that there may have been an error of judgment.

8. MCI upheld the findings of DMC and confirmed the view that the petitioner had acted unprofessionally. However, MCI also enhanced the punishment imposed by DMC from a simple warning to the removal of his name from the Medical Register for a period of one year.

9. After hearing arguments, considering the surrounding circumstances and examining the rival stands, this Court is of the view that the enhancement of punishment was not warranted. DMC is a professional body and had examined the conduct and had found that the punishment of warning to be sufficient. There was no additional material before MCI to take a contrary view or hold that DMC has faulted in imposing a lesser punishment.

10. In view of the above, the impugned order passed by MCI to the extent

that it has enhanced the punishment imposed on the petitioner, is set aside. The findings of MCI and DMC that the petitioner's conduct is unprofessional warrants no interference. However, it is clarified that such findings will not come in the way of disbursal of the terminal benefits payable to the petitioner's family.

11. The petition and the application are disposed of with the aforesaid observations.

VIBHU BAKHRU, J

AUGUST 01, 2019
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