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

+ **W.P.(C) 5479/2017 and CM APPL. 23026/2017**

RAKESH JAIN

..... Petitioner

Through: Mr Avdhesh Singhal, Advocate.

versus

MEDICAL COUNCIL OF INDIA & ANR

..... Respondents

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

Mr Bapi Das, Advocate for Mr
Praveen Khattar, Advocate for DMC.

AND

+ **W.P.(C) 6092/2017 and CM APPL. 25281/2017 & 25282/2017**

SHAIFALI CHAUHAN

..... Petitioner

Through: Mr Vaibhav Agnihotri, Mr Vinayak
Harshwardhan and Ms Sneha Jheetay,
Advocates.

versus

MEDICAL COUNCIL OF INDIA AND ORS

..... Respondents

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

Mr Bapi Das, Advocate for Mr
Praveen Khattar, Advocate for DMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.01.2019

1. The petitioners have filed the present petitions impugning an order dated 26.05.2017 passed by the Medical Council of India (hereafter 'MCI'), whereby the decision of the Ethics Committee to, *inter alia*, remove the

names of the petitioners from the Indian Medical Register for a period of three months, was accepted.

2. Mr Ashish Tyagi, (respondent no.2 in W.P.(C) 5479/2017 and respondent no.3 in W.P.(C) 6092/2017) had filed a complaint with the Delhi Medical Council (hereafter DMC), *inter alia*, alleging negligence in the medical treatment of his son (Master Sidhant Tyagi) who expired on 07.12.2012.

3. The said complaint was examined by the DMC, and was rejected as the Disciplinary Committee of DMC was of the view that the child was suffering from acute gastroenteritis with severe dehydration with acidosis, and despite treatment – which the Disciplinary Committee of DMC found appropriate – became sick with multiple organ failure. The Disciplinary Committee did not find any fault in the treatment or conduct of the petitioners.

4. Aggrieved by the aforesaid order dated 13.06.2014, Sh. Ashish Tyagi preferred an appeal before the MCI which culminated in the impugned order.

5. It is seen that the impugned order merely reproduces the decision of the Ethics Committee. The extract of the said decision as relevant to the petitioners reads as under:-

“Considering the grave nature of the case and the unprofessional conduct of the doctors; the Ethics Committee after detailed deliberation unanimously decided as under:-

The Ethics Committee decided to remove the names of Dr. Rakesh Kumar Jain and Dr. Shaifali Chauhan from the Indian Medical Register for a period of 3 (Three Month)....”

6. It is apparent from the above that the impugned order is unreasoned.

The impugned order merely states that the conduct of the petitioners was unprofessional and the nature of the case was grave. MCI has not indicated any reason for its aforesaid conclusion. The impugned order does not indicate any conduct on the part of the petitioners, which the Ethics Committee had found to be unprofessional.

7. In view of the above, the impugned order cannot be sustained. The impugned order to the extent that it relates to the petitioners is set aside and the matter is remanded to the Ethics Committee to consider it afresh in accordance with law.

8. The petitions and pending applications are disposed of.

9. Order *dasti*.

VIBHU BAKHRU, J

JANUARY 25, 2019
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