

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CWP No.7228-2020(O&M)
Date of Order:23.09.2020

Mrs. Monika Mahajan

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudeep Mahajan, Advocate,
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab
for respondent no.1.

Mr. Manpreet Singh Longia, Advocate
for respondent no.2-Medical Council of India

Mr. Sehajbir Singh, Advocate
for respondent no.3-Punjab Medical Council

Mr. Vishva Bahl, Advocate
for respondent no.4.

Mr. Anupam Bhardwaj, Advocate
for respondent no.5.

ANIL KSHETARPAL, J(Oral)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner has filed the present writ petition under articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari, for quashing circular dated 13.12.2017 issued by respondent no.3 and the order dated 23.07.2019, passed by the Board of Governors in supersession of Medical Council of India.

On 06.08.2020, the following order was passed:-

“Counsel for the petitioner inter alia contends that Punjab Medical Council, Mohali passed a cryptic order Annexure P7 holding that there is no negligence on the part of Dr. Rohit Kapoor and Dr. Vaneet Sehgal. It is further argued that order dated 13.12.2017 was dispatched to the petitioner on 27.04.2018 and the same was received by her on 05.05.2018. It is argued that even if the period of limitation envisaged in Clause 8.8 of the Indian Medical Council Regulations, 2002 is reckoned w.e.f 27.04.2018, appeal filed by the petitioner on 06.07.2018 is well within the period of limitation more particularly in the circumstances that there is no finding recorded by the Board of Governors that the petitioner is not entitled to benefit of proviso appended to Clause 8.8. It is further argued that the Board of Governors also passed a cryptic order approving the recommendations of the Ethical Committee without adverting to various grounds raised in appeal preferred by the petitioner. Notice of motion. Mr. Charanpreet Singh, AAG, Punjab accepts notice on behalf of State of Punjab and prays for time to file reply. Be listed on 18.09.2020.

This court has also gone through the order dated 23.07.2019, Annexure P-11, passed by the board of Governors, in its meeting. The Board of Governors after reproducing the proceedings of 19th and 20th June, 2020, have observed that the recommendations of Ethical Committee have been accorded approval.

In the considered view of this court, the order passed is not a speaking order.

At this stage, it would not be appropriate to make any other observation.

Learned counsel appearing for the Medical Council of India, has informed the Court that the term of the Board of Governors, is going to elapse on 25.09.2020 and thereafter, 'National Medical Commission' is likely to take over.

Be that as it may.

Keeping in view the facts of the case, the Medical Council of India is directed to re-decide the appeal filed by the petitioner, afresh. The order dated 23.07.2019, Annexure P-11, is set aside. The Medical Council of India or the National Medical Commission would re-decide the appeal within 2 months from the date of receipt of the certified copy of this order.

Disposed of, accordingly.

September 23, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No