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

+ **W.P.(C) 736/2020**

DR. PANKHURI AGRAWAL

..... Petitioner

Through: Ms. Preetika Dwivedi, Advocate.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms. Monika Arora, CGSC with
Mr. Akash Deep Gupta, Advocates
for respondent no. 1/UOI.
Mr. T. Singhdev with Ms. Michelle
B. Das, Ms. Sumangla and
Ms. Arunima Pal, Advocates for
respondent no. 2/MCI

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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20.01.2020

1. Issue notice to the respondents.
2. Ms. Monika Arora accepts notice on behalf of respondent no. 1 while Mr. T. Singhdev accepts notice on behalf of respondent no. 2.
3. In view of the order that I intend to pass, counsel for the respondents say that they will argue the matter based on the record and hence do not wish to file a counter-affidavit in the matter.
4. The substantive prayers made in the writ petition are as follows:-

*“(a) Issue a Writ of certiorari or any other appropriate Writ, Order or direction for setting aside order dated 06.03.2019 passed by the Board of Governors, Medical Council of India ;
(b) Issue writ of mandamus or any other appropriate writ or Direction in the like nature to the Respondent to register the postgraduate degree obtained by the Petitioner from the University of Hertfordshire as an additional qualification of the Petitioner under Section 26 of The Indian Medical Council Act, 1956 and update the Indian Medical Register accordingly,
(c). Issue writ of mandamus or any other appropriate writ or Direction in the like nature to the Respondent to recognize the post graduate degree obtained by the petitioner ("M.Sc. in Clinical Dermatology") from the University of Hertfordshire, as an equivalent qualification under with MD/MS under Schedule II of the Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998;”*

5. A perusal of the prayers would show that the petitioner in effect is aggrieved by the fact that the qualification acquired by her which is M.Sc. in Clinical Dermatology from the University of Hertfordshire is not being registered by respondent no. 2.

5.1 In support of her plea, the petitioner relies upon the notification dated 07.03.2008 issued by respondent no. 1.

5.2 In particular reliance is placed on the following part of the notification:-

“S.O. 459E--- In exercise of the powers conferred by sub-section (4) of the Section 13 of the Indian

Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby makes the following further amendments in Part II of the Third Schedule to the said Act namely :-

*In the said Schedule under the heading “ Part II Recognized Medical Qualifications Granted by Medical Institutions outside India not included in the Second Schedule”, after the entries relating to the qualification Doctor of Philosophy (Ph.D.) in Medical Sciences (Dagastan Medical Institute), U.S.S.R. * and below the explanation of the asterisk (*), the following shall be added namely :-*

“All post graduate medical qualifications awarded in Australia and recognized for enrolment as medical practitioners in the concerned specialities in that country;

All post graduate medical qualifications awarded in Canada and recognized for enrolment as medical practitioners in the concerned specialities in that country;

All post graduate medical qualifications awarded in New Zealand and recognized for enrolment as medical practitioners in the concerned specialities in that country;

All post graduate medical qualifications awarded in United Kingdom and recognized for enrolment as medical practitioners in the concerned specialities in that country;

All post graduate medical qualifications awarded in United States of America and recognized for enrolment as medical practitioners in the concerned specialities in that country;”

6. Besides this, the petitioner appears to be aggrieved also by the fact that the aforementioned post-graduation qualification obtained by

her is not being treated as equivalent to MD/MS under Schedule II of the minimum qualifications for Teachers in Medical Institutions Regulations, 1998.

7. Ms. Dwivedi, who, appears on behalf of the petitioner says that apart from anything else, the impugned order is bereft of any reasons.

8. Mr. Singhdev, who, appears on advance notice on behalf of respondent no. 2 has made some submissions across the bar in support of the conclusion reached in the impugned order.

9. At this juncture, I do not intend to consider the submissions advanced by Mr. Singhdev since order passed should be such that it speaks for itself.

10. The impugned order as, rightly, contended by Ms. Dwivedi is bereft of reasons, consequently, I am inclined to set aside the impugned order.

11. The writ petition is, thus, disposed of with the following directions: -

11.1 The impugned order is set aside. The petitioner is given liberty to make a comprehensive representation to respondent no. 2/MCI qua her request for registration of the aforementioned qualification.

11.2 The representation will be made within two weeks from the date of receipt of copy of the order.

11.3 Respondent no. 2 shall grant personal hearing to the petitioner. For this purpose, a written notice will be issued to the petitioner which will indicate the date, time and venue of the hearing.

11.4 After hearing the petitioner, a speaking order will be passed by

respondent no. 2; a copy of which will be served on the petitioner.

11.5 In case, the petitioner is aggrieved by the order passed by respondent no. 2, she will have liberty to take recourse to an appropriate remedy as per law.

12 Needless to add, respondent no. 2 will act with due expedition. The aforementioned exercise will be completed within six weeks from the date of receipt of the copy of this order.

RAJIV SHAKDHER, J

JANUARY 20, 2020

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