

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1950 OF 2021

Dr. Ambadas N. Kadam.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Dilip Bodake for the Petitioner.

Mrs. Aruna S. Pai, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.

Date : **May 13, 2021.**
[Vacation Court]

P. C. :

1. Heard the learned counsel for Petitioner. The Petitioner is approaching this Court with the present petition with a limited prayer. The few facts necessary for considering the prayer of the Petitioner are as follows :

. The Petitioner is a medical practitioner. He obtained his degree of medicine in the year 1995. The certificate of registration was granted to him in the year 1997 and the additional certificate was granted to him on 27th March 2001 by the Maharashtra Medical Council, Mumbai and permitted the Petitioner to practice in the field of medicine and a necessary renewal certificate is issued by the Maharashtra Medical Council, Mumbai on 4th July 2018.

With these necessary certificates, the Petitioner started his

practice by opening a hospital in Pusegaon, taluka Khatav, district Satara. As the competent authorities found that the Petitioner has committed certain acts in violation of the provisions of the PCPNDT Act, the Petitioner was charged and tried for the said violations. Though the learned Magistrate by his judgment and order dated 14th November 2011 in Regular Criminal Case No.17 of 2005 recorded the conviction, the appellate Court, i.e., the Additional Sessions Judge, Waduj in Criminal Appeal No.21 of 2011 found that the prosecution has failed to establish its case against the Petitioner and by assigning reasons, Criminal Appeal No.21 of 2011 was allowed. Resultantly, the judgment and order dated 14th November 2011 passed by the learned Magistrate, Waduj in RCC No. 17 of 2005 was set aside. The Petitioner then thought it fit to start his medical practice afresh. He sought permission from the competent authorities to replace his earlier sonography machine, which was outdated and in-operational. The Petitioner then approached the authority by filing necessary application so as to run the hospital and sonography centre. The application was submitted to the authority on 23rd January 2019. Copy of the application submitted to the authority is placed on record at page nos. 82 to 89 along with necessary forms. As the application was pending before the authorities concerned for a long time, the Petitioner submitted an application under the RTI Act so as to know whether the State is desirous of filing any appeal against the

judgment and order passed by the appellate Court. It came to the knowledge of the Petitioner that the Law & Judiciary Department by its communication dated 23rd October 2020 informed the learned Additional Government Pleader and Additional Public Prosecutor, Waduj, district Satara that the Government does not consider the proposal for filing of appeal as a fit case and the papers were returned to the office of the Additional Government Pleader and Additional Public Prosecutor, Waduj. When the Petitioner again approached the authority to know the progress in his application, it was informed to him by the communication dated 15th February 2021 that the said application is pending before the competent authority and the same was kept before the Advisory Committee on 5th February 2021 for seeking necessary guidance from the senior officials and the application is kept in abeyance till guidance from the senior officials is received.

2. It is the submission of the learned counsel for the petitioner that in view of these peculiar circumstances, where there is surge of cases due to pandemic Covid-19, if the Petitioner is permitted to start the sonography center, it would only serve a better purpose and cause of the public in general. It is also submitted by the learned counsel for the Petitioner that except the reason that the application is kept in abeyance for seeking guidance from the senior officials, there is nothing adverse against the petitioner in the communication.

3. Learned APP appearing for the State submitted that for want of instructions she is unable to make submission on the merit of the matter.

4. Considering the above-referred facts, we are of the opinion that it would be appropriate to direct the competent authorities to decide the application dated 23rd January 2019 on its own merits. There is also considerable merit in the submission of the learned counsel of the petitioner that in these prevailing circumstances, if the application is considered positively, the Petitioner would be in a position to serve the public at large.

5. Considering all these aspects, we are of the opinion that the petition can be disposed of by directing the competent authority, i.e., Respondent No.2 before whom the application of petitioner is pending to decide the same as early as possible and not later than six weeks from today. Needless to state that the authority is at liberty to decide the said application on its own merits. The petition is accordingly disposed of with the above mentioned directions.

6. All concerned to act upon the authenticated copy of this order. Learned APP to communicate this order to the respondent authorities.

[N R. Borkar, J.]

[Prasanna B. Varale, J.]