



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.37042 of 2006 and W.P.M.P.No.1 of 2006
and 38944 of 2006
and W.P.M.P.1 and 2 of 2006

Dr.B.AnandaRajan. ...Petitioner in W.P.No.37042 of 2006

Dr.S.T.Balamurali ...Petitioner in W.P.No.38944 of 2006

vs

1)The Medical Council of India,
rep. By its Secretary, Pocket-14,
Sector-8, Dwarka Phase-1,
New Delhi 110075.

2)The Union of India,
Rep. By its Secretary, Ministry of Health,
New Delhi.

3)The Registrar,
Dr.M.G.R.Medical University, Guindy,
Chennai-25.

...Respondents in W.P.No.37042/2006

4)The Dean, MES Medical College,
Calicut, Kerala.

5)The Dean,
Dr.Pinnammaneni Institute of Medical sciences,
Chinoutpalli

...Respondents in W.P.No.37042 of 2006

4)The Dean,
PES Institute of Medical Sciences,
Kuppam

5)The Dean
Mahatma Gandhi Medical College
Pondicherry

...Respondents in W.P.38944 of 2006

Prayer in W.P.No.37042/2006 :- Writ Petition filed praying to
issue a Writ of Certiorarified Mandamus calling for the records
in NO.MCI-34(C)/2004-MC./12958 dated 06.09.2006, on the file of



the 1st respondent and direct the 1st respondent to include the petitioner's name in the Medical Council of India.

Prayer in W.P.No.38944 of 2006 :- Writ Petition filed praying to issue a Writ of Certiorarified Mandamus calling for the records in NO.MCI-34(C)/2004-MC./12948 dated 06.09.2006, on the file of the 1st respondent award the same and direct the 1st respondent to include the petitioner's name in the Medical Council of India.

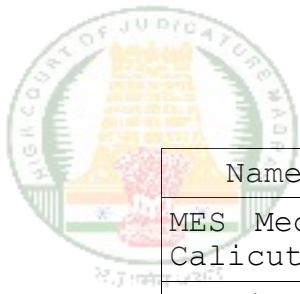
For Petitioners
in both W.Ps : Mr.A.Thiyagarajan, Senior Counsel
Asst. by M/s.A.Vinupradha

For Respondents
in both Petitions : Mr.M.S.Seshathri
for Mr.V.P.Raman, for R1
Mr.D.Ravichander for R3
M/s.K.Subbu Ranga Bharathi
for R2.

COMMON ORDER

The petitioner in W.P.No.37042 of 2006 has enrolled and registered as a Doctor in the Medical Council in the State of Tamil Nadu as per the provision sof the Medical Council of India. The petitioner joined in the Chengalpattu Medical College on 10.07.2002 and worked till the date of his voluntary retirement on 18.06.2004. It is submitted by the petitioner that he applied to the Lecturer post in MES Medical college, Calicut and on 13.09.2003, he attended interview but did not receive any appointment order. Thereafter, he joined in the Meenakshi Medical College as a professor on 22.12.2004 and had been working there. At that time, the petitioner was issued a show cause notice and called upon by the Ethics Committee alleging certain misconduct. The show cause notice issued on 04.10.2004 stated that at the time of inspection in the mentioned colleges by Medical Council of India, the college authorities had submitted a set of declaration forms regarding employment of teachers, those sets of declaration forms contained a declaration form duly signed by the petitioner declaring that he was working full time in these institutes. The name of college, date of joining, date of inspection is given as follows:-

Name of College	Date of joining	Date of inspection
Chengalpattu Medical College, Chengalpattu	10.07.2002	09.01.2004



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Name of College	Date of joining	Date of inspection
MES Medical College, Calicut	31.08.2003	13.09.2004
Dr.Pinnamaneni Institute of Medical Sciences, Chinoutpalli	02.03.2004 & 5.01.2004	22.03.2004 29.04.2004
Meenakshi Medical College	22.12.2004	11.03.2005

2. It is submitted by the petitioner that in the Chengalpattu Medical College, he was working upto his voluntary retirement was accepted and he worked upto 18.06.2004; he has not joined or appointed by the MES Medical College, Calicut. As far as Dr.Pinnamaneni Institute of Medical Sciences, Chinoutpalli is concerned, there is a clear manipulation of records by forging documents. Further, it is stated that he joined the present college on 22.12.2004 after his retirement and therefore, there is no misconduct or malpractice of any of the violation of the ethics.

3. It is submitted by the petitioner that the 1st respondent referring to Section 10(a) of the Indian Medical Council Act generalized the issue and passed orders. But it cannot be a ground to penalize him in the factual circumstances.

4. The petitioner averred in the writ petition that based on the communication of the 1st respondent dated 25.05.2005, he appeared before the Ethics Committee on 12.07.2005. However, the 1st respondent by proceedings dated 06.09.2006, temporarily removed his name from the Indian Medical Register from 1st September 2006 upto 31st July 2008.

5. According to the petitioner, the proceedings issued by the 1st respondent is vitiated one and suo motu proceedings of the 1st respondent is not justified. Challenging the same, the petitioner filed the present writ petition. Learned counsel for the petitioners placed reliance on the decision of the Supreme Court reported in 2015 SCC Online Bom 5060 [Dr.Shalik Bhaurao Ade Vs. Medical Council of India and others] and a decision of this court reported in (2013) 3 Mad LJ 263 [Dr.K.Nedumaran Vs. The Chairman, Ethics Committee, Medical Council of India and others] to contend that prejudice has been caused by the non-grant of opportunity of hearing.

6. As far as petitioner in 38944 of 2006 is concerned, it is also a similar case. It is the submission of the petitioner that



he applied for the Lecturer post in PES Institute of Medical Sciences, Kuppam, Andhra Pradesh. But he did not receive any interview or any appointment order, thereafter he was called for interview. He attended the interview on 31.03.2004 and returned on the same, but he did not receive any appointment order from the college.

7. The petitioner joined in the Mahatma Gandhi Medical College, Pondicherry as a Professor on 15.12.2003 and working. At that time, he was called upon by the Ethics committee of the first respondent alleging the misconduct. The allegation is about date of joining and relieving from PES institute of Medical Sciences, Kuppam. The name of college, date of joining, date of inspection is given as follows:-

Name of College	Date of Joining	Date of inspection
PES Institute of Medical Sciences, Kuppam	29.01.2004	31.03.2004
Mahatma Gandhi Medical College, Pondicherry.	15.12.2003	16.03.2004

The petitioner herein also stated that he has given explanation to the show cause notice and therefore, the order passed by the 1st respondent stating that the name of the petitioner is erased from the Indian Medical Register temporarily from 1st September 2006 to 31 July 2008 is without reference to any misconduct or any infamous conduct is only misleading the council in discharging its statutory duties and it is in violation of law.

8. On a reading of the impugned order dated 06.09.2006, it would transpire that the matter was considered by the Ethics Committee at its meeting held on 11 and 12 August 2005 wherein before the Ethics Committee, the petitioner in W.P.37042/2006 had voluntarily made a statement as under:-

".....I joined at Chengalpattu Medical College on 10.07.2002 and continuously working there and I was physically present during the MCI Inspection on 09.01.2004 voluntary retirement from Govt .Service on 18.06.2004.

On 13.09.2003, I requested to the authorities of MES Medical College to be present in their institute during the MCI Inspection going to be held on that day. I did it because I got a good offer from that institute in future. I know that I should not have done this and I assure tht it will not be repeated in future. Kindly excuse me for the same. I have never worked at Pinaminani institue of Medical Sciences, Chinnoutpalli,



the photograph and the signature are not of mine in the declaration form of that institute"

Like wise, the petitioner in W.P.No.38944 of 2006 made the following statement:-

"....At present I am working as Lecturer at Mahatma Gandhi Medical College, Pondicherry where I joined on 15.12.2003 and was physically present during the MCI inspection held there on 16.03.2004

On 31.03.2004 I was physically present at PEST Insti. Of Medical Sciences, Kuppam when MCI Inspection was being held. Actually, I was mis-guided by the authorities of PES Instt. Of Medical Sciences they assured me of a higher pay which did not reach me ultimately. While appeared before the MCI inspection on 31.03.2004 at PEST Instt. Of Medical Sciences, I did not take any permission from my parent institute i.e. Mahatma Gandhi Medical College but I appeared thereafter availing casual leave from my parent institute. I accept that I have done wrong thing and I assured that it would not be repeated in future."

9. The Medical Council of India, in its impugned order pointed out as under:-

" over a period of last 1-2 years by considering the inspection reports of various medical colleges seeking permission/renewals under Section 10A of the Act, it was felt and observed that a large number of doctors are claiming employment as medical teachers in more than one medical college at the same time. It was being observed that the names of the doctors shown as medical teachers in a particular medical college were getting repeated in the inspection reports of certain other medical colleges, in the same proximity of time."

10. Apparently, the medical colleges and the medical teachers were indulging in such activities only to show to the inspection team of the Council that the colleges concerned are fulfilling the minimum requirement for the teaching staff for seeking permissions/renewals under Section 10A of the Act.

11. According to the Medical Council of India, to curb such unscrupulous tendencies, starting adopting methods of declaration forms to be signed by the doctors claiming employment as medical teachers in any given medical college and that they also remain present along with their declaration forms, at the time of conduct of the inspection of that college. Subsequently, a provision for endorsement by the Dean/Principal of the medical college was also introduced in the Declaration Forms to make this requirement more efficient and effective by stating that in the event of any declaration made by a



particular medical teacher out to be untrue and incorrect, the Dean/Principal of the College putting signatures as endorsement of the truthfulness of the statement made in the declaration would also be held responsible in that event.

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12. The Medical Council of India/1st respondent, issued show cause notice to the petitioner and due opportunity was given to present his explanation before the Ethics Committee. The issue was considered by the General Body of the Council with all required seriousness. It is stated that misdeclaration/misstatements are made to cause deception not only to the Council but also on the Central Government for extracting permissions/renewals under Section 10A of the Act. A reading of the impugned orders in the above Writ Petitions would go to show that the petitioners while working in the particular institution also stated to be working in other institution and signed the declaration forms in those institutes and they were physically present at the time of MCI inspection, which is nothing but misleading the Council in discharging its statutory duties and also illegal and in violation of law. Claiming employment at more than one medical college at the same point of time is detected by the 1st respondent at the time of inspection. The petitioners were called upon by the show cause notice to explain the said misdeclaration. The explanation submitted by them was not found satisfactory by the Medical Council of India and therefore, they were called before the Ethics Committee. Before the Ethics Committee, the petitioners given statement admitting their guilt and that they were physically present during the MCI Inspection in the colleges, where they were not employed at the relevant point of time.

13. The explanation submitted before the Medical Council of India was not found satisfactory and thereafter the petitioners given statement before the Ethics Committee agreeing with the misdeclaration. Such misdeclaration is to be strictly viewed. The representation of the petitioners seeking apology cannot be accepted. The voluntarily given statement before the Ethics Committee clearly proved that these petitioners mislead the council. The records clearly proved that the petitioners were working in more than one institutions at the same time. There is no question of violation of principles of natural justice as the Medical Council of India given show cause notice, asked for explanation, thereafter, communicated by way of letter to appear before the Ethics Committee and based on the inspection report and the voluntarily statement made by the petitioners before the Ethics Committee and on considering the matter by General Body at its meeting held, considered the entire issue and passed the impugned order. It is pointed out by the Medical Council of India that the misstatements are not only causing deception to the Council but also on the Central Government for extracting



permissions/renewals under Section 10A of the Act. Since there is no violation of principles of natural justice and no prejudice caused to the petitioners, the citations referred to by the learned counsel for the petitioners are not applicable to the present case on hand.

14. The plea of the counsel for petitioners is that the 1st respondent does not have the powers to take action against the petitioners who are teachers enrolled and governed by the State Act, is also unmerited. The impugned action is a decision which emanated in the General Body Meeting after taking into consideration the fact that teaching faculty present in a college is not working actually there but in other place and that too other State. Teaching faculty who has shown themselves to be teaching at a particular college is not working but "on paper teacher". In such circumstances, this court is of the considered view that the petitioners are not entitled for any relief and the impugned orders passed is in accordance with the Regulations. Accordingly, the writ petitions are dismissed.

15. As far as the issue in question is that a number of Medical teachers who submitted their declaration forms and their names found in the records in the Medical Colleges are not in fact teaching in the colleges and are shown as faculty members merely on paper whereas they are physically practicing and working for gain at a different venue / place. Therefore, this court deems it fit to pass the following observations and also certain directions to the Medical Council of India as well as the State Council for complying with the same, in order to curb the malpractice adopted by the medical teachers.

16. Interest of the Student and patent public should be taken into paramount consideration and not the individual interest. The conduct of the petitioners would prove that there is no professional ethics followed by them. They are misleading the institution. The Teachers who work in the schools, colleges are expected of professional ethics rather motivating the students in teaching how to earn more money from their profession/extract money from patient public.

17. Medical Profession is a noble profession. Such unscrupulous methods adopted by the petitioners claiming employment as medical teachers in any given medical college, would affect the students training and resultantly the medical profession itself would become a mere profession for earning money alone and not for service to the poor and needy persons.

18. It is not out of context to observe that most of the Private Medical Colleges and also some of the Government Medical Colleges are not having adequate infrastructure and qualified



teaching faculties to give proper training to medical students and to treat the patients. Therefore, in the interest of justice, this court directs as under:-

(i) Medical Council of India is directed to get the approved list of teaching faculties and the infrastructure facilities from all medical colleges under its control and to verify as to whether they have fulfilled the qualifying criterion as per the Regulations.

(ii) Such approved teaching faculties list shall be directed to be furnished within a month of every fresh academic year, annexing the list of medical teachers working in their institutions every academic year.

(iii) Medical Council of India is also directed to get the detailed report as regards the changes whenever occur due to a teacher retirement or resignation or new appointment or the teacher left the college. MCI is directed to publish the list of the medical colleges/institutions/Universities with their approved faculties list and notifying the changes occurred from time to time and the infrastructural facilities available therein, in the Official Government Website so that the students and colleges can verify as to whether any faculty's name is shown in more than one college and he/she has been employed in any other Medical College/University/Institution.

(iv) The MCI at the time of inspection of the Medical Colleges, shall verify the faculties present in the college along with the list of faculties already submitted by the college and if there is any deviation, the MCI shall take stringent action not only against the teaching faculty who found to give false declaration but also against the College, by cancelling their approval or not granting approval as the case may be. Mere suspension of licence to the Medical faculties alone would not curb the malpractice adopted in the college as both teaching faculty and Medical Colleges/institutions/Universities are responsible for such action.

(v) The Medical Council of India is also directed to get the updated documents from the Medical Colleges with respect to compliance with the Regulations and statutory requirements as per the amendments made from time to time.

(vi) The Medical Council of India is directed to make its intervention for stressing adequate infrastructure facilities to adapt the situation to the Medical Colleges under its control.

19. Lastly, this court likes to point out that it is not only unjustifiable, undesirable but also unethical to permit any faculty who is working in one place and present in other college



on the date of MCI inspection by filing misdeclaration and not following the statutory requirements as prescribed under the Regulations to work as a medical teacher. Further, running the medical college/institution with such compromised teaching faculty will result into degradation of the standards of medical education as the graduates from such institute will be dealing with lives of human beings without getting adequate training from the medical teachers. Hence, considering all the factors in totality, action in such cases is to be taken as contemplated under the provisions of the Act and no leniency could be shown in such cases. Accordingly, the Writ Petitions are dismissed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nvsri

To

- 1.The Secretary,
The Medical Council of India,
Pocket-14,
Sector-8, Dwarka Phase-1,
New Delhi 110075.
- 2.The Secretary,
The Union of India,
Ministry of Health,
New Delhi.
- 3.The Registrar,
Dr.M.G.R.Medical University, Guindy,
Chennai-25.
- 4.The Dean
Mahatma Gandhi Medical College,
Pondicherry
- 5.The Dean,
MES Medical College,
Calicut, Kerala.
- 6.The Dean,
Dr.Pinnammanni Institute of Medical Sciences,
Chinoutpalli.



7.The Dean,
PES Institute of Medical Sciences,
Kuppam.

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+1cc to M/s.Shubhranjani Ananth, Advocate SR.No.55298

W.P.Nos.37042/2006 & 38944/2006

NMI (CO)
RVM(25/11/2021)