

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

210/2

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In Virtual Court

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CWP No. 9619 of 2016 (O & M)

Date of decision : 18.01.2021

Dr. Rama Sofar Hospital

.....Petitioner

Vs.

Punjab Medical Council and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. M.S. Saini, Advocate, for the petitioner

Mr. H.S. Dhindsa, Advocate, for respondent No.1

Mr. M.S. Longia, Advocate, for respondents No.2

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of mandamus, directing respondent No.1 to allow the petitioner hospital to advertise in news papers, as per Regulation No. 7.12 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 (in short 'the Regulations'). Further prayer of the petitioner is that the respondents be directed not to take any action against the petitioner hospital and/or its administrator in respect of any advertisement by the petitioner hospital, in consonance with Regulation No. 7.12 of the Regulations.

Separate written statements have been filed by the respondents, in which it has been stated that there are rules and regulations in place governing the subject and that these statutory bodies can take action only for violation of any provisions of these rules and regulations. It is further submitted by the counsel for the respondents that since the rule is permitting, issuance of advertisement for certain purposes, therefore, there is nothing to stop the petitioner from issuing advertisement in the newspapers for those specified purposes and limited to the extent mentioned

in those rules. However, the petitioner cannot be granted a blanket exemption from compliance of the rules.

This Court finds substance in the argument of the counsel for the respondents. The prayer of the petitioner is only for restraining the respondents from taking action against the petitioner in violation of the rules. However, there cannot be any presumption that the respondents would be acting in violation of the rules prescribed by them. Hence, whereas the petitioner is having full liberty to issue advertisement; but not in violation of the Regulation No.7.12 of the Regulations, the respondents would also be duty bound to take action against violation of the same.

In view of the above; the counsel for the petitioner seeks permission to withdraw the present petition with liberty to issue advertisement only in compliance of the relevant rules.

Accordingly, the present petition is dismissed as withdrawn with liberty aforesaid.

However, if the petitioner hospital violates any rule relating to issuance of advertisement; then the respondents would also be at liberty to take action against the petitioner, but in accordance with law.

All the pending applications stands disposed of accordingly.

(RAJBIR SEHRAWAT)
JUDGE

18.01.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No