

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

210-3

CWP No.22018 of 2016 (O&M)
DATE OF DECISION : 18th JANUARY, 2021

Dr. Manwant Singh Sood

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. R. S. Bains, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

Mr. Manpreet Singh Longia, Advocate for respondent No. 2.

Mr. H. S. Dhindsa, Advocate for respondent No.3.

None for respondents No.4 & 5.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India praying for setting aside the impugned order dated 25.07.2016 passed by respondent No.2 vide which the appeal dated 11.08.2014 filed by the petitioner, has been dismissed stating that there was no act of unethical practices or professional misconduct on the part for respondent No.4 and that the Ethics Committee of respondent No.2, has already upheld the decision of respondent No.3 qua the allegation of delay caused by respondent No.4

in operation of the mother of the petitioner resulting in her death, demand of illegal money from the petitioner and forgery of the order of the Punjab Medical Council (PMC).

Referring to the written statement filed by respondent No.3- the Punjab Medical Council, the counsel for the petitioner has pointed out that the complaint made by the petitioner was required to be considered and decided by the Punjab Medical Council. The meeting of the Ethics Committee of PMC for this matter was scheduled to be held on 22.12.2015. However, for certain reasons the same was held on 21.12.2015 and during the meeting of the Ethics Committee the aspect of complaint, filed by the petitioner, was referred to the Disciplinary Committee; for examination of the witnesses. As per the written statement, due to conflict between the then President of the PMC and the then Minister of Medical Education, Punjab no further meeting could take place. Accordingly, the complaint filed by the petitioner against respondent No.4-Dr. Harinder Singh Bedi, was kept to be examined in some other meeting; which was to be held on some future date. However, as per the written statement, the complaint filed by the petitioner was not examined and finally decided thereafter, ever.

Learned counsel for respondent No.2-MCI has submitted that against the inaction of PMC on the complaint filed by the petitioner, the petitioner had approached the MCI. The said petition was treated as an appeal under the regulations of the MCI. However, during the proceedings of the said appeal, respondent No.4 had produced an order dated 12.09.2014, stated to be passed by PMC. The said letter/order was referred to the Ethics Committee of MCI and the said committee recommended upholding the abovesaid decision dated 12.09.2014; of the

PMC. The said recommendation of Ethics Committee of MCI was approved by the Executive Committee of the MCI in its meeting dated 15.06.2016. However, even the MCI has not placed on record any such letter/order dated 12.09.2014.

The counsel for the petitioner has submitted that the PMC has not referred to any such letter/order dated 12.09.2014 anywhere in their pleadings; and the said letter/order is fabricated by respondent No.4. Instead, as per the written statement filed by the PMC, there is no order dated 12.09.2014. It is only a note, which was made on noting file by the President of the PMC and which reads as under:

“I have personal knowledge of this case and MCI is seized of the matter and may again be listed for the Ethics Committee-A in the next meeting.”

Hence, this noting, by no means, is an order, rather it is only a suggestion to put up the matter in the next meeting of the Ethics Committee, which had never taken place, as clarified hereinabove.

Neither respondent No.4 nor respondent No.5 has filed any written statement.

A bare perusal of the above said pleadings by the parties shows that the petitioner had made a complaint against respondent No.4 regarding his professional misconduct. That complaint was referred to the Ethics Committee of PMC. The President of the PMC, vide his noting dated 12.09.2014 advised for putting up the agenda of this matter in its next meeting. However, as mentioned above, the said meeting could never take place because of the mutual differences between the then President of PMC and the then Minister of Medical Education,

Punjab. The MCI has wrongly treated the interim proposal of the

President for referring the matter to the Ethics Committee as a final order on the issue and have disposed of the appeal on the basis of the same by treating it as a final order. Therefore, the decision of MCI to treat the said noting on the file as an order, is not sustainable. Even if the MCI is taken to have upheld that noting as an order; then also the said noting/order only makes proposal to put up the matter before the Ethics Committee of the PMC in the next meeting. However, at the cost of repetition, the said meeting was never held. As a result, the complaint filed by the petitioner has remained totally unconsidered, either by the PMC or by the MCI.

In view of the above, the present petition is disposed of by directing respondent No.3-PMC to consider the complaint of the petitioner, involved in the present petition, and to take conscious decision thereon by granting opportunity of hearing to the petitioner, within a period of four months from the date of receipt of the certified copy of the order. It is clarified that whatever procedure and steps are required to be taken by respondent No.3 for taking a decision on this complaint, shall have to be taken and undergone within this period of four months only.

All the pending applications shall also stand disposed of accordingly.

18th JANUARY, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>