

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24250 of 2019

Dr. Surendra Prasad S/o Late Jagdish Prasad Resident of Pramila Kunj,
Pawati Path, New Chitra Gupta Nagar, Kankarbagh, P.s.- Kankarbagh, Distt.
and Town- Patna

... .. Petitioner/s

Versus

1. Union of India through Secretary, Ministry of Health and Family Welfare,
Nirman Bhawan, Near Udyog Bhawan Metro Station, Maulana Azad Rd.
New Delhi, Delhi-110011.
2. Dental Council of India through its Secretary, Alwan-e-Galib Marg, Kotla
Road, New Delhi-110002.
3. State of Bihar through Secretary, Health Department, Govt. of Bihar, 1st
Floor, Vikas Bhawan, Bailey Road, Patna-800015.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Lal Babu Singh, Advocate
For the Respondent/s : Ms. Punam Kumari Singh, C.G.C.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- i) For a declaration that the Note 7 provided under clause 17
(d) of the Dental Council of India, Master of Dental Surgery
Course Regulation, 2017 framed by the Dental Council of
India with prior approval of Government of India is ultra vires
to the Dentist Act, 1948 and unconstitutional.

ii) Consequently, for quashing the Note 7 provided under Clause 17 (d) of the Dental council of India, Master of Dental Surgery Course Regulation 2017, being unconstitutional and ultra vires.

iii) For a further declaration that:-

(a) The Note 7 provided under clause 17 (d) of the Dental Council of India, Master of Dental Surgery Course Regulation, 2017 is ultra vires to the Dentist Act, 1948.

(b) The enactment of Note 7 of the Dental council of India, Master of Dental Surgery Course Regulation 2017 is without jurisdiction as Section 20 of the Dentist Act, 1948 doesn't confer any power/jurisdiction on the Dental Council of India to make regulation with regard to enhancement or reduce of age of the dental teachers.

(c) The Note 7 provided under clause 17 (d) of the Dental Council of India, Master of Dental Surgery Course Regulation, 2017 is discriminatory and unconstitutional being violative of Article 14 of the Constitution of India.

(d) The Note 7 provided under clause 17 (d) of the Dental Council of India, Master of Dental Surgery Course Regulation, 2017 is not applicable to the petitioner and the petitioner can continue as the Professor in the Dental College even after attaining the age of 65 years.

iv) For any other relief or consequential reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case.

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned i.e. Respondent No. 2, Dental Council of India through its Secretary, Alwan-e-Galib Marg, Kotla Road, New Delhi-110002, or any of the statutory authority to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its

filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;

(e) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(f) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in

accordance with law and with reasonable dispatch;

(g) Liberty reserved to the petitioner to approach the appropriate forum, if the need so arises subsequently on the same and subsequent cause of action;

(h) We have not expressed any opinion on merits. All issues are left open;

(i) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	