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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-01-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.11314, 11316 and 11317 of 2011

K.Pavithraya	..	Petitioner in WP 11314/2011
P.K.Balakrishnan	..	Petitioner in WP 11316/2011
M.K.Babu	..	Petitioner in WP 11317/2011

vs.

Union Territory of Puducherry,
Represented by its Principal Secretary
to Government (Health)-cum-
Appellate Authority,
Chief Secretariat,
Puducherry - 605 001.

.. Respondent in all WPs

WP 11314 of 2011 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the order of the respondent in Dental Appeal No.3 of 2010 dated 03.08.2010 and quash the same and consequently, direct the respondent to register the petitioner's name in the Register of Dentist as per Section 33(1)(b) of the Dentists Act, 1948.

WP 11316 of 2011 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the order of the respondent in Dental Appeal No.13 of 2010 dated 03.08.2010 and quash the same and consequently, direct the respondent to register the petitioner's name in the Register of Dentist as per Section 33(1)(b) of the Dentists Act, 1948.

WP 11317 of 2011 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the order of the respondent in Dental Appeal No.4 of 2010 dated 03.08.2010 and quash the same and consequently, direct the respondent to register the petitioner's name in the Register of Dentist as per Section 33(1)(b) of the Dentists Act, 1948.



petitioners received notice from the Appellate Authority for furnishing all the relevant documents and the petitioners furnished their proof of age, experience, place of residence etc. Another notice dated 27.01.2006 was issued by the respondent, asking the petitioners to appear before the Appellate Authority on 30.01.2006, which also complied with by the petitioners. In spite of that, the cases of the petitioners were not considered and the appeal was also rejected on 03.08.2010. Thus, the petitioners are constrained to move these writ petitions.

5. The respondent filed counter-affidavit by stating that the petitioners admittedly do not hold any recognised dental qualification. The writ petitioners claim for inclusion of their name in the First Register of Dentists based on their practice as Dentists. The Registration of Dentists provision is governed by the Dentists Act, 1948.

6. The Act came into force all over the country on 29.03.1948. However, the Act was extended to Puducherry through the Puducherry (Laws) Regulation, 1963 with effect from the 1st day of October, 1963. Section 31 of the Act provides that the Council shall maintain the Register of Dentists known as 'Indian Dentists Register' which consists of entries in all the State Register of Dentists. The Register of Dentists shall be maintained in two parts, namely Part 'A' and Part 'B'. Part 'A' consisting of all Dentists possessing recognised dental qualification. Part 'B' contains persons not holding such qualification, but engaged in practice of Dentistry as principal means of livelihood for a period not less than five years prior to the date appointed by State Governments under Section 32 (2) of the Act. The appointed date by the Government of Puducherry for the purpose of Section 32 (2) of the Act, was 15.02.1980.

7. Section 31(1)(b) of the Act, confers right upon the persons those who do not possess dental qualification to enter their name in the Register of Dentists when it is first prepared subject to two conditions. The first one is that they must be the citizen of India. The second one is that such person has been engaged in practice as a Dentist as his principal means of livelihood for a period of not less than five years prior to the date appointed under Sub-Section (2) of Section 32 of the Act. The Registration Tribunal notified by the State Government under sub-section (1) of Section 32 of the Act, should prepare the First Register of Dentists. The Dentists Registration Tribunal for Puducherry was constituted under Section 32 of the Act vide G.O.Ms.No.184/DS/(H)/78, dated 13.12.1978 of the Health Electricity and Works Department, Pondicherry.



8. The Registration Tribunal notified by Government of Puducherry received various applications from those persons claims to have been engaged in practice as a Dentist as their principal means of livelihood for a period of not less than five years prior to 15.02.1980. The Registration Tribunal after being satisfied with the 218 applicants (Part-B) for registration under Section 33 of the Act, directed the entry of the names of those 218 applicants (Part-B) on the register vide G.O.Ms.No.69/Health/82, dated 21.05.1982 and the First Register of Dentists prepared under Section 32 of the Act. The same was published in the Gazette of Pondicherry (Extraordinary) Part-I dated 22.06.1982. In addition to the said 218 Dentists, in the year 2009, three more applicants were included in the First Register of Dentist based on the direction of Appellate Authority. Hence, totally 221 (218 + 1 + 2) Dentists were included in Part-B First Register.

9. In exercise of powers conferred under Section 21 of the Act, the Government of Puducherry constituted the State Dental Council vide G.O.Ms.No.61, dated 04.08.2010. The Dentists Registration Tribunal cease to function from the date of constitution of the State Dental Council. Hence, the Register of Dentist in Part-B maintained by the Registration Tribunal was handed over to the State Dental Council. Out of total 218 + 1 + 2 numbers of Dentists found in First Registration of Part-B, only 56 registrations were on live while handing over to State Council. Out of 56 Dentists, the name of one Dentist was not found in the list of 218 and no records are available in State Dental Council, Puducherry. Remaining numbers were left out since they failed to follow up. Subsequently, 5 Part-B Dentists (already existing in the list of 218 persons vide Gazette Notification G.O.Ms.No.69/Health/82, dated 21.05.1982), those who did not follow up were added in the existing State Dental Council, Puducherry Part-B Register and 10 Part-B Dentists (who had applied on or before 15.02.1980) were also included in the Part-B Register of Puducherry State Dental Council based on their appeal and direction issued by this Court as on 18.02.2020. However, as on date, renewal of registration under Part-B issued to totally 48 persons (valid upto 31.12.2021).

10. Admittedly, the applications submitted by the petitioners were rejected by the Registration Tribunal. They preferred an appeal and kept silent for about 22 years. Suddenly, the petitioners filed writ petitions for dispose of the appeal and pursuant to the directions issued by this Court, the appeal was disposed of and the claim of the petitioners were rejected.

11. In compliance with the orders of this Court, the Authorities directed the petitioners to appear before the



Appellate Authority and produce the documents and the Authorities found that there are many discrepancies that the petitioners are not entitled for any such registration and accordingly rejected the appeal.

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12. The question arises whether the petitioners are entitled for such registration under Section 31 of the Dentists Act, 1948. The particulars of the petitioners and the reason for rejection by the respondent, which all are important, are tabulated hereunder:-

S.No	WP No.	Name	Proof of Practice	Reason for rejection by respondent
1.	11314/2011	Pavithraya	Experience Certificates issued by Dr.C.N.Ravi, Anthiyour, 1970-75	1.Resident of Uthangarai, Tamil Nadu. 2.Ration Card at Thirukoilur. 3.Bank Pass Book at Thirukoilur. 4.Age 12 years at the time of practice.
2.	11316/2011	Balakrishnan	Experience Certificate issued by Dr.Unni, Tirupatthur, 1975-80.	1.Ration Card at Walajahpet. 2.VAO Certificate in Walajahpet. 3.Bank Passbook Telephone Bill, EPIC at Sholingur. 4.Age 16 years. 5.Time given to produce documents not filed.
3.	11317/2011	Babu	Experience Certificate issued by Dr.Unni, Tirupatthur, 1971-76	1.Ration Card at Dharmapuri. 2.Bank Pass Book, Telephone Bill, EPIC at Dharmapuri. 3.Age 13 years

13. Section 31 (3) of the Act speaks about the Registration under two categories viz., Part 'A' and Part 'B'.

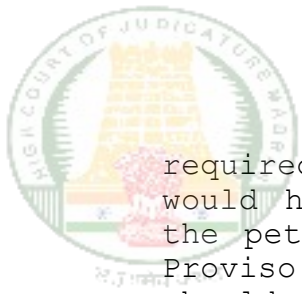


Part 'A' is for persons possessing the requisite dental educational qualification. Part 'B' for person who do not possess any such qualification. Section 32 (1) empowers the State Government for constitution of a Registration of Tribunal. Section 32 (2) of the Act states that "the State Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal". The appointed date for the Union Territory of Puducherry under the provisions of the Act was 15.02.1980. Therefore, the case of the petitioners are to be considered with reference to the appointed date. Section 32 of the Act, envisages two types of registration i.e., (a) Registration of persons having required dental qualification (b) persons who do not possess dental qualification being in practice as principal means of livelihood for at least five years. Section 33 of the Act, prescribes the required qualification for entry on first preparation of Register. It prescribes two kinds of qualification viz., (a) persons holding the dental qualification; (b) persons who do not hold such qualification. Section 34 speaks about the Registration of Dentists, after the appointed date i.e., on 15.02.1980.

14. With reference to the above qualification under the Act and the facts of the case placed by the petitioners, which all are to be considered whether the conditions stipulated are satisfied for registration under Section 33 (2) of the Act. The person applying should be either residing or carrying on profession of Dentistry in the State. If the applicant does not hold the recognised dental qualification, the applicant must be the citizen of India and ought to have engaged in practice in the State as a Dentist as his principal means of livelihood for minimum five years prior to the appointed date.

15. The choice of words by Legislature viz., 'in the State', assumes significance and makes it blatant that the consideration of application by the Tribunal is 'Territorial' centric. In other words, the applicant should be either residing or carrying on profession in that particular State before whose Registration Tribunal he files the application. The respondent had rejected the original petition and the appeal primarily on the ground that the petitioners have not filed any documents for their subjective satisfaction on the residence and nativity of the petitioners.

16. As mentioned above, the Act mandates triple conditions for registration. The petitioners had filed application stating that they have practised for 5 years along as Dentists. The above application do not allow the petitioners to clear the triple test. The respondent had specifically



required the petitioners to produce Nativity Certificate, which would have established that they are citizens of India, as if the petitioners are not citizens of India, then Section 33 (2) Proviso Clause takes care of such a situation. The petitioners should have been in practice for at least 5 years, and a mere practice is not suffice and the same should have been their principle livelihood. The petitioners in all these writ petitions have not established their citizenship and have not established that the Dentist practise for five years as their principal livelihood is not established by them in their application.

17. The very purpose and object of the profession is the registration. The persons should be the citizen of India holding the required qualification to protect the dental practitioners, who were continuing their practice prior to enactment of the Dentists Act. The very purpose and object is to protect the existing practitioners at the time of Enactment of the Act. The same cannot be utilised for the purpose of registration of the persons, who are otherwise not educationally qualified for the purpose of registration. Such special provisions enacted in order to protect the pre-enactment practitioners cannot be utilised for the purpose of making new registration, thereby defeating the very purpose and object of possessing dental educational qualification as per the Dental Council.

18. The Dentistry became a fast growing research appointed medical field prevailing in India. As of now, the person who do not hold a valid dental qualification are not allowed to practice as Dentists. Therefore, the purpose of registration permitted in respect of the dental qualification in the Act in order to protect the pre-enactment practitioners cannot be abused or wrongly used.

19. In these cases, there were norms dealt notifying the appointed date by the Government of Puducherry that made these kind of practitioners to submit their applications for the purpose of registration. When the Act came into force on 29.03.1948, to establish the date for the Government of Puducherry for the purpose of Section 32 was 15.02.1980. This made these kind of unqualified persons to submit their applications for registration.

20. This apart, perusal of the details of the petitioners would reveal that there are many discrepancies even in the certificates filed by these petitioners and the experience certificates would reveal that they were practising Dentist at the age of 12, 16, 13 years, which cannot be trusted upon nor be approved. Thus, the rejection of applications as



well as the appeal by the respondent are well within the powers conferred under the provisions of the Act and the respondent have not committed any perversity or infirmity as such.

21. It is brought to the notice of this Court that it is not made clear whether they are the practising as dentists or not. If so, all suitable actions are to be initiated. The respondent is directed to communicate the copy of this order to the jurisdictional District Collector, wherein the petitioners are residing and in the event of finding out that these practitioners are practising Dentist, then appropriate actions are to be initiated against those persons.

22. Accordingly, all the writ petitions stand dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS III)

/true copy/

Sub Assistant Registrar

Svn
To

The Principal Secretary to Government (Health)-cum-
Appellate Authority,
Union Territory of Puducherry,
Chief Secretariat,
Puducherry - 605 001.

+3cc to Mr.S.Sathia Chandran, Advocate, sr.No.3566, 3567, 3568

+1cc to Government Pleader, Sr.No.3493, 3492, 3491

WPs 11314, 11316
and 11317 of 2011

PMK (CO)
KM(01/02/2022)