



W.P.No.28775 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.10.2022

DELIVERED ON : 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.28775 of 2016
and W.M.P.Nos.24817 & 24818 of 2016

Dr.Rama Rao Mannam

.. Petitioner

Vs.

1. The Medical Council of India,
rep. by its Secretary, having his office
at Pocket-14, Sector-8, Dwarka Phase-I,
New Delhi - 110077.
2. Tamil Nadu Medical Council,
represented by its Secretary,
having his office at
No.914, Poonamallee High Road,
Arumbakkam, Chennai - 600106.
3. MNR Educational Trust,
rep. by its Director,
2-23B/350, Bhagyanagar, Phase-III,
near HMT Hills Colony, Kukatpally,
Hyderabad - 500072, Andhra Pradesh.
4. M/s.Shri Sathya Sai Medical College
and Research Institute,
rep. by its Dean/Principal,
Ammapettai, Nellikuppam - 603108.
Kancheepuram District.

.. Respondents



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Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent in his proceedings No.MCI-211(2)(218)/2014-Ethics/121792, dated 25.07.2016, in so far as it relates to the petitioner and quash the same as being illegal, arbitrary, without jurisdiction and violative of the fundamental rights of the petitioner and to consequently forbear the 1st and 2nd respondents, their officers, employees, subordinates or any other persons claiming or acting under them in any manner interfering with the right of the petitioner to practice his profession, including any post of a similar nature in any university or medical college.

For Petitioner : Mr.J.Raja Kalifulla
SC for Mr.J.Jayendrakrishnan

For Respondent 1 : Mrs.Subharanjani Ananth

For Respondent 2 : Mr.G.Sankaran

For Respondents 3 & 4 : No appearance

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ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 25.07.2016, whereby, it is stated that the Ethics Committee decided to remove the name of the petitioner from the Indian Medical Register for the period of 1 year from the date of Notification alleging that the petitioner made a false declaration that he has not presented



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himself for inspection at any other institution as a Faculty in the current academic year for the purpose of Medical Council of India (MCI) inspection.

2. The brief facts leading to the filing of this writ petition is as follows:

(i) The writ petitioner is a registered medical practitioner and now running a hospital in the name of 'A.K.Hospital' at Chennai. He has registered himself with the Tamil Nadu Medical Council and holding Medical Registration No.80714.

(ii) After completing M.B.B.S. course in the year 1978, he was practicing privately for a few years and thereafter joined as a Tutor in the Department of Psychiatry at Kasturiba Medical College, Manipal in 1988 and served there for three years till 1991. Thereafter, the petitioner joined P.E.S. Institute of Medical Science, A.P. as Assistant Professor on 01.06.2003 and he was promoted as Associate Professor on 01.11.2008. After serving for three years and seven months at the P.E.S. Institute of Medical Science, A.P., the petitioner resigned and joined as Associate Professor in the Department of Psychiatry at M.N.R. Medical College and Hospital, A.P., the third respondent herein, on 02.07.2012 and he was



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promoted as Professor on 01.11.2012. He resigned from the post of Professor on 30.11.2013 and thereafter, he joined Shri Sathya Sai Medical College and Research Institute at Kancheepuram, the fourth respondent herein, as Professor in the Department of Psychiatry on 01.12.2013.

(iii) Thereafter, the petitioner was served with a Notice dated 16.04.2015, by the Medical Council of India, the first respondent herein, asking him to appear before the Ethics Committee at New Delhi on 29.04.2015. As the petitioner failed to appear before the Ethics Committee on 29.04.2015, the Ethics Committee sent another notice on 08.07.2015 asking the petitioner to appear on 20.07.2015. In the said letter, it is stated that the Sub-Committee constituted by the Medical Council of India regarding Fake Faculty Declaration Forms for the academic year 2014-15, where the name of doctors appeared in more than one Medical College. The Sub-Committee has observed that the Declaration Form of M.N.R Medical College was signed by the Faculty on 02.07.2012 and the Date of Assessment on the form is stated to be 07.10.2013. The Faculty has not disclosed the fact that he was assessed in the earlier assessment in the same academic year in the Declaration Form of Shri Sathya Sai Medical Institute.



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(iv) It is the contention of the petitioner that he was working as faculty member in M.N.R. Medical College, Sangareddy Medak District, Andhra Pradesh and during the period of his service from 02.07.2012 to 30.11.2013, he attended inspection as a Faculty member of the said institution. Thereafter, he resigned from M.N.R. Medical College on 30.11.2013 and subsequently joined as Professor in the Department of Psychiatry at Shri Sathya Sai Medical College and Research Institute, Chennai on 01.12.2013 and there also he attended M.C.I. inspection as faculty member of the Shri Sathya Sai Medical College and Research Institute, Chennai during the academic year only after being relieved from the service of the M.N.R. Medical College and he ceased to be a faculty member on and after 30.11.2013.

(v) During the petitioner's tenure as Professor at M.N.R. Medical College, he signed the declaration for inspection as faculty member on 02.07.2012 as Associate Professor. He was promoted as Professor on 01.11.2012 and resigned from the said post on 30.11.2013 and he was relieved on the same day. After joining Shri Sathya Sai Medical College and Research Institute, Chennai on 01.12.2013, he attended the inspection as faculty member on 11.03.2014. According to the petitioner, the impugned



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order has been passed mechanically, without application of mind and misconception of facts.

(vi) The petitioner was not present during MCI inspections conducted at M.N.R. Medical College during the academic year 2013-2014, since he was employed as Professor in the Department of Psychiatry in the said college till 30.11.2013 as on that date he resigned his post and joined as Professor and HOD in the Department of Psychiatry at Shri Sathya Sai Medical College and Research Institute on 01.12.2013.

(vii) According to the petitioner if the M.N.R. Medical College had produced any material without his knowledge he cannot be penalized. Hence the Ethics Committee decision removing his registration for a period of one year from the Indian Medical Register is against the Principles of Natural Justice and Principles of Equity Justice.

(viii) According to the petitioner, he has signed the declaration form of M.N.R. Medical College only on 02.07.2012 and the same was assessed on 07.10.2013 i.e., after nearly 15 months and the petitioner cannot be held responsible for that. He neither signed nor subscribed to any such declaration



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on 07.10.2013 and there is no specific allegation against the petitioner. The punishment imposed by the respondent to remove the name of the petitioner from the Indian Medical Register for a period of one year from the date of notification is wholly without jurisdiction and not maintainable.

(ix) Further, according to the petitioner Rule 8 of the Ethics Regulations stipulates that disciplinary proceedings has to be conducted by the State Medical Council and thereafter appeal lies with the Medical Council of India, whereas the Medical Council of India has conducted the disciplinary proceedings and removed his name which is ultra vires of its powers under the Indian Medical Council Act.

(x) The first respondent is to act as an appellate body and consider the appeal filed against the orders of the State Medical Council and therefore the order passed by the first respondent is not valid in the eye of law and therefore sees to quash the impugned proceedings.

3. Counter affidavit has been filed on behalf of the first respondent by the National Medical Commission of India contending as follows:

(i) It is their contention that the Ethics Committee of the erstwhile



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MCI after perusing the statements of the petitioner and scrutinizing the documents available on record, had observed that the petitioner had signed the declaration form submitted at MNR Medical College on 02.07.2012 and the date of assessment was 07.10.2013. The petitioner has not disclosed the fact that he was assessed in the earlier assessment in the same academic year in the declaration form provided during the inspection at Shri Sathya Sai Institute.

(ii) The Ethics Committee after due discussion and deliberation decided to remove the name of the petitioner from the Indian Medical Register for a period of one year as the petitioner had committed an act of serious misconduct as he appeared for an inspection conducted by the Assessor of the erstwhile MCI on 07.10.2013 at MNR Medical College and Hospital, Sangareddy, Telangana and he appeared for an inspection conducted by the Assessor of the erstwhile MCI on 07.10.2013 as Professor and HOD, Psychiatry at Shri Sathya Sai Medical College and Research Institute, Kancheepuram in the same academic year i.e. 2014-15.

(iii) It is contended that the petitioner in his deposition dated 12.07.2015 had admitted that he was working as a faculty in the MNR



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Medical College from 02.01.2012 to 30.11.2013 and during the period of his service, he had appeared in the inspection as a faculty of the above mentioned medical college. Subsequently, he joined Shri Sathya Sai Medical College and Research Institute, Kancheepuram on 01.12.2013 and had attended inspection as faculty member of the aforesaid college in the same academic year 2014-15.

(iv) Therefore it is contended that the declaration dated 02.07.2012 provided at MNR Medical College, Telangana during inspection conducted on 07.10.2013 was for the academic year 2014-15 and the fact that the petitioner had signed it on 02.07.2012, does not further his case, since he was physically present during the inspection conducted on 07.10.2013, when he had appeared before the Assessors.

(v) Thus, the petitioner cannot take refuge of the fact that he had signed the said declaration on 02.07.2012 i.e. during academic year 2012-13, since admittedly the same was provided to the Assessors during the inspection conducted on 07.10.2013 along with him also being physically present during the said inspection. It was known to the petitioner that the inspection being conducted on 07.10.2013 was for academic session 2014-15



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and still he appeared in another inspection on 11.03.2014 at Shri Sathya Sai Medical College and Research Institute, Kancheepuram which was also in respect of academic session 2014-15.

(vi) In any event, the petitioner in both the inspections of 07.10.2013 and 11.03.2014 was presented as Professor / HOD and thus cannot claim with his seniority in the profession that he was unaware of the academic session in respect of which the aforesaid inspections were being conducted.

(vii) It is their further case that Clause-2 under Schedule-II of the Minimum Standard Requirements for the Medical College for 150 Admission Annually Regulations, 1999 provides that all teaching staff of all departments of medical college i.e. faculty as well as residents shall be regular and full-time employees of the medical college. The teaching faculty i.e. faculty as well as residents cannot be working in a private set-up and a medical college at the same time.

(viii) In the declaration form, the faculty has to give a specific declaration that he has not presented himself to any other institution as a faculty in the current academic year for the purpose of MCI assessment and



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an undertaking is given that he is a full faculty and does not have any private practice.

(ix) It is further contended that Regulation 7.1 provides that a registered medical practitioner would be committing misconduct under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002 in case he violates any of the provisions of the Regulations.

(x) Regulation 7.7 of the said Regulations provides that a registered medical practitioner may be called to give documents including Declaration Form signed by them for administrative purposes and in case such documents including declaration form if found to be untrue, misleading or improper, then in such a case, the name of the registered medical practitioner is liable to be deleted from the Indian Medical Register.

(xi) It is their contention that the petitioner attended inspection twice in the academic session for the year 2014-15 and suppressed the previous inspection in the subsequent declaration form, therefore action has been taken by the Ethics Committee and after due enquiry order has been passed removing the name of the petitioner from the Indian Medical Register for a



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period of one year. As there is no illegality or irregularity in the said order the

first respondent prays for dismissal of the writ petition.

4. The learned senior counsel appearing for the petitioner would vehemently contend that while the petitioner was working in M.N.R. Medical College on 02.07.2012, he signed the declaration, whereas, the same has been used for inspection on 07.10.2013 by the college authorities at no fault of the petitioner. He has resigned from the M.N.R. Medical College on 30.11.2013. Thereafter, the petitioner joined Shri Sathya Sai Medical College, Kancheepuram on 01.12.2013 and thereafter he has also attended inspection during the subsequent assessment year. The petitioner signed the declaration form on 02.07.2012 and it appears that the same has been misused by the college for which he cannot be penalized.

5. The learned senior counsel further contended that the college which submitted the declaration form has not been penalized, whereas the petitioner has been penalized by removing his name in the Indian Medical Register for a period of one year and in any event it is his contention that putting signature on different dates in different forms is only an irregularity and it is not a misconduct, which has not been considered by the Ethics Committee.



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WEB COPY 6. The learned senior counsel further contended that the Medical Council of India is only an Appellate Body and it cannot assume the role of State Medical Council and in fact the right of appeal to the petitioner is also lost and on that ground also the impugned order is liable to be set aside.

7. The learned senior counsel further contended that the date of declaration is shown as 02.07.2012 and merely because the college has submitted the form later on during the assessment, the petitioner cannot be penalised.

8. The learned senior counsel further submitted that for a mere irregularity in submitting the form drastic punishment cannot be imposed by the Ethics Committee. It is his further contention that the petitioner is a reputed Doctor and there is no other previous antecedents as regards any professional misconduct and therefore the said punishment is really harsh and it will ruin the career of the petitioner and therefore seeks to set aside the impugned order.

9. Whereas the learned counsel appearing for the first respondent



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would vehemently submit that the petitioner himself has admitted that he was present during the inspection on 07.10.2013 and subsequently gave the declaration form for other college viz., Shri Sathya Sai Medical College and Research Institute, Kancheepuram. He participated in the earlier inspection in the previous college for the same academic year and Rules prohibits participation of a faculty for two different colleges in the same academic year. When the Rules prohibits such act, the petitioner cannot contend that he is not aware of the same.

10. The learned counsel further contended that the Ethics Committee after following all the Rules and Regulations clearly found that the petitioner suppressing his participation in the earlier inspection, participated in the subsequent inspection without disclosing the same in the declaration form is against professional ethics and etiquettes and accordingly passed punishment of removing his name from the Indian Medical Register for a period of one year.

11. The learned counsel further submitted that Medical Council India being the apex body is entitled to take any disciplinary action against any Doctor. Therefore, there is no need to go to the State Medical Council and such measures have been taken only in order to arrest unauthorized



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participation of the Doctors in different colleges only in order to get recognition for conducting the courses.

12. The learned counsel further submitted that medical profession being an important profession lot of Rules and Etiquettes are to be followed strictly and therefore the impugned order does not suffer from any infirmity and seeks dismissal of the writ petition.

13. The learned counsel in support of her said submission, also relied upon a judgment of a Division Bench of Bombay High Court in ***Dr. Shalik Bhaurao Ade Vs. Medical Council of India*** reported in ***2015 SCC OnLine Bom 5060*** to contend that Medical Council of India is the supreme or apex body can proceed against any doctor for their infamous conduct and profession misconduct. As against the said judgment, a Special Leave to Appeal has been preferred before the Hon'ble Supreme Court in ***S.L.A(C) No.32464 of 2015*** and the Hon'ble Supreme Court by its order dated **30.11.2015**, has confirmed the order passed by the Division Bench of the Bombay High Court.

14. I have heard the learned counsel on either side and also perused



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the entire materials available on record carefully.

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15. With regard to the first submission that the Medical Council of India has no jurisdiction to take any action, this issue is no longer *res integra*. It is relevant to note that a Division Bench of the Bombay High Court in ***Dr. Shalik Bhaurao Ade's case*** (cited supra) in a similar identical issue in paragraph 33 has held as follows:

“33.....To our mind, a harmonious reading of these clauses or paras would demonstrate that the Council can as a supreme or apex body proceed against every doctor, medical practitioner and teacher if his/her conduct is infamous or he/she has committed a professional misconduct. The profession of medicine encompasses its practice, teaching and administration. The performance and conduct of a professional must be such as would not only prove his/her skills and competence but must show that he is truly worthy of the respect of students, patients and general public.....”

16. The above order has been challenged before the Hon'ble Apex Court in Special Leave to Appeal and the same has been dismissed.



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Therefore, such view of the matter, this Court is of the view that the contention put forth by the petitioner that the Medical Council of India as an Apex Body cannot usurp the powers of the disciplinary proceedings has no legs to stand.

17. With regard to the other submission, it is the contention of the petitioner that the petitioner has only signed the declaration on 02.07.2012, thereafter the same has been used by the college at a later point of time. Such contention cannot be countenanced for the simple reason that in the very deposition given by the petitioner before the Ethics Committee on 12.07.2015, the petitioner has clearly admitted that he was working in M.N.R. Medical College and Hospital, Telangana from 02.01.2012 to 30.11.2013 and during the period of his service he has appeared in the inspection as a faculty of the above mentioned medical college and subsequently he joined Shri Sathya Sai Medical College and Research Institute, Kancheepuram on 01.12.2013 and after joining Shri Sathya Sai Medical College and Research Institute, Kancheepuram, he has attended inspection as faculty member of the said college for the same academic year. It is the specific stand of the first respondent that during the subsequent inspection on 11.03.2014, the petitioner was very much present.



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WEB COPY 18. The declaration form signed by the petitioner while he was serving in M.N.R. Medical College and Hospital, Telangana indicated that date of assessment was made on 07.10.2013, it is also specifically given in the declaration form that he has not presented himself to any other institution as a faculty in the current academic year for the purpose of MCI assessment in the declaration form signed by him on 02.07.2012 and the assessment was made only on 07.10.2013. Therefore, contention that the writ petitioner though signed the declaration form but it has been used by the college latter, cannot be countenanced. Admittedly, on 07.10.2013, the petitioner was working in the M.N.R. Medical College and Hospital, Telangana and he has resigned only later on 30.11.2013. Thereafter, on 01.12.2013, he joined at Shri Sathya Sai Medical College and Research Institute, Kancheepuram. When the petitioner was present on 07.10.2013, it is presumed that the inspection has been conducted for the academic year 2014-15. Thereafter, he also attended inspection on 11.03.2014 on behalf of Shri Sathya Sai Medical College and Research Institute, Kancheepuram for the same academic year 2014-15 and it is the specific stand of the first respondent that on both the inspections conducted on 07.10.2013 and 11.03.2014 respectively, the petitioner was very much present as Professor and as HOD.



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WEB COPY **19.** Such being the position, this Court is of the view that now the petitioner cannot take a stand that the declaration form has been given earlier and the same was subsequently used by the college authorities. The petitioner being a senior faculty must be aware of the consequence of signing such declaration. When he has presented himself for inspection on 07.10.2013, in the subsequent declaration form he ought to have declared that he has already attended the inspection in a different college for the academic year 2014-15, whereas he has deliberately suppressed the same in the subsequent declaration form and attended inspection in another college on 11.03.2014 for the same academic year 2014-15. Thus the facts clearly shows that the petitioner has participated in the inspection of two different colleges in the same academic year i.e. 2014-15.

20. In the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 Chapter - 7 deals with Misconduct. Regulation 7.7, which is relevant, reads as follows:

**"Regulation 7.7 : Signing Professional
Certificates, Reports and other Documents:**
Registered medical practitioners are in



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certain cases bound by law to give, or may from time to time be called upon or requested to give certificates, notification, reports and other documents of similar character signed by them in their professional capacity for subsequent use in the courts or for administrative purposes etc. Such documents, among others, include the ones given at Appendix - 4. Any registered practitioner who is shown to have signed or given under his name and authority any such certificate, notification, report or document of a similar character which is untrue, misleading or improper, is liable to have his name deleted from the Register."

21. A careful perusal of the above Regulation makes it clear that it is only an inclusive definition dealing with signing professional certificates, reports and other documents. Any registered practitioner who is shown to have signed or given under his name and authority any such certificate, notification, report or document of a similar character which is untrue, misleading or improper, is liable to have his name deleted from the register.

22. Therefore, signing the declaration forms on a different date and



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attending the inspection on a different date that to for two different colleges suppressing his participation in the earlier inspection, the act of the petitioner certainly goes against the professional etiquette and ethics and amounts to misconduct. Though the Ethics Committee has found that it is only an irregularity, the fact remains that the petitioner who is of such a caliber ought not to have suppressed his participation in the earlier inspection.

23. Such view of the matter, the findings of the Ethics Committee that the petitioner has violated the Regulations cannot be found fault with. However, taking note of the fact that except signing the declaration on different dates and not properly disclosing the same in the subsequently declaration, no other misconduct whatsoever has been found against him. Therefore, considering the fact that the petitioner is aged about 71 years and there is no other antecedents against him and he has established his own hospital and running the same, this Court is of the view that it is a fit case where the punishment of removal of the petitioner's name from the Indian Medical Register can be reduced from a period of one year to three months and the same will meet the ends of justice. Accordingly, the period of one year removal imposed by the first respondent is reduced to three months. With the above observations, the writ petition is disposed of. Consequently,



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the connected miscellaneous petitions are closed. No costs.

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18.10.2022

Index : Yes / No

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To

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Pocket-14, Sector-8, Dwarka Phase-I,
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PRE DELIVERY ORDER
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