

27.02.2023

Ct. 5

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**WPA 3555 of 2023**

**Dr. Anirban Chatterjee**

**-Vs-**

**The West Bengal Medical Council & Ors.**

Dr. Anirban Chatterjee

... petitioner in person

Mr. Saibalendu Bhowmik,

Mr. Biplab Guha,

Mr. Rajsekhar Basu

... for the WBMC

Mr. Ayan Poddar,

Ms. Poulami Bhowmick,

Ms. Pritha Bhowmick

... for the private respondent/respondent no. 4

Mr. Arindam Chandra,

Ms. Antara Dey

... for the respondent no. 5

The petitioner is aggrieved by a Notice dated 2<sup>nd</sup> February, 2023 of the Assistant Registrar, West Bengal Medical Council asking the petitioner to appear before the Penal and Ethical Cases Committee of the Council on 15<sup>th</sup> February, 2023. The impugned notice was sent in response to a complaint made by the private respondent against the petitioner.

The petitioner is a practising doctor who is engaged with AMRI Hospitals, Dhakuria. The complaint relates to an incident which took place on 17<sup>th</sup>

December, 2019 involving the petitioner, the complainant/private respondent and the father of the private respondent. It is admitted that the subsequent death of the private respondent's father has nothing to do with the alleged incident.

The petitioner, appearing in person, submits that the complaint is not maintainable under The Bengal Medical Act, 1914 and The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, as amended. The petitioner says that as a practicing doctor, the petitioner has a right to choose his patient. This can be found under the Regulations 2.1 and 2.4 of the 2002 Regulations. The petitioner submits that the petitioner was held up due to roadblocks and protests on 17<sup>th</sup> December, 2019 and therefore could not reach the Hospital on time. This triggered a slew of messages by the private respondent on social media.

Learned counsel appearing for the Council submits that the Council simply acted on the complaint made by the private respondent. It is also submitted that the petitioner has not furnished the proof of his qualifications in the reply.

After hearing the petitioner and counsel appearing for the respondents, it appears that the Council has not explained the intervening delay of 3 years in taking action against the complaint. The

incident took place on 17<sup>th</sup> December, 2019, the Council received the complaint on 31<sup>st</sup> December, 2019, the Council wrote to the petitioner on 21<sup>st</sup> January, 2020, the petitioner replied on 8<sup>th</sup> February, 2020 and the impugned Notice calling the petitioner to appear before the Council is of 13<sup>th</sup> January, 2023. The Council hence took an inordinately long time to get its act together. The documents before the court also indicate that the petitioner had furnished proof of his qualifications.

Whatever be the truth of the allegations, this Court is not inclined to stay the impugned Notice since the petitioner has only been asked to appear before the Committee for the purpose of ascertaining the facts of the complaint. The petitioner shall have the liberty of taking all points which have been urged before this Court on the maintainability of the complaint under the governing Act and Regulations.

The Council shall take a decision upon hearing the petitioner and the private respondent. The Council shall complete the fact-finding exercise within two weeks and pass a reasoned order within three weeks from date. A copy of the reasoned order shall be made available to the petitioner within four weeks from date.

Since the petitioner is a practising doctor, the Council will take the convenience of the petitioner into

account in fixing the date and duration of the hearing for the exercise as directed.

WPA 3555 of 2023 is disposed of in terms of the above.

**( Moushumi Bhattacharya, J.)**