

18,19
29.03.2023
Mb

C.P.A.N. 1293 of 2022
Dr. Kunal Saha
Vs.
Manas Chakraborty
With
C.P.A.N. 345 of 2023
Dr. Kunal Saha
Vs.
N.S. Nigam & Anr.
in
W.P.A. No. 8140 of 2022

Dr. Kunal Saha
... the petitioner in person

Mr. S.N. Mookherjee,
Mr. Nilotpal Chatterjee,
Mr. Amrita Lal Chatterjee
...for the alleged contemnors

Mr. Saibalendu Bhowmik,
Mr. Biplab Guha,
Mr. Subrata Bhattacharjee
...for the W.B.M.C.

The petitioner, appearing in person, alleges that in view of changed circumstances to the effect that the State has apparently complied with its obligation in terms of the order under contempt, the laches and negligence in complying the order of this Court dated June 29, 2022 was on the part of the West Bengal Medical Council. It is pointed out by Dr. Saha, the petitioner, appearing in person with leave of Court, that in paragraph 59 of the said order it was clearly stipulated that the respondent no. 2 shall complete the process of nomination of members as envisaged in Section 4 of the Bengal Medical Act, 1914 and ensure

that appropriate steps in terms of the 1914 Act are taken so that the formalization and all necessary paraphernalia regarding the constitution of the new, duly-elected Medical Council are completed latest by October 31, 2022. It is pointed out, additionally, that in the very next paragraph of the order it is recorded that due notification will be made and steps taken for adherence to the above time-frame, so that the newly-elected council can start functioning effectively on and from November 01, 2022.

It is submitted that the Medical Council did not comply with the time-frame as stipulated in the said order and took the necessary steps only after the stipulated time-frame.

It is, however, submitted that the Medical Council ultimately took steps by January, 2023, which is more than two months after the deadline given in the said order.

A perusal of the order under contempt indicates that there was specific direction on the respondent no. 2/State of West Bengal to complete the process of nomination of members within October 31, 2022, which was mandatory in nature.

However, the observations in paragraph 60 of the said order to the effect that due notification will be made and steps taken for adherence to the above time-frame, so that the newly elected council can start

functioning effectively on and from November 01, 2022, were merely directory in nature.

That apart, in order to decide the dispute now sought to be raised by the petitioner, to the effect that the Medical Council failed to take appropriate steps in terms of the order by proper adherence to Section 11 A of the 1914 Act, there has to be a fresh adjudication by way of a new writ petition. It is beyond the scope of a contempt application to go into the nitty-gritties of such allegation and/or to direct affidavits or rule to be issued in connection with the contempt application. Hence, there is no scope of issuing a rule of contempt.

Accordingly, C.P.A.N. 1293 of 2022 and C.P.A.N. 345 of 2023 are disposed of by granting liberty to the petitioner to take appropriate steps before the appropriate forum and/or before the writ court, in the event the petitioner has any further grievance with regard to the activities of the West Bengal Medical Council in respect of holding of new election and/or any subsequent event.

If so approached, the said proceeding shall be decided independently on its own merits without being influenced in any manner by any of the observations made herein.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)