

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.122 OF 2023

Municipal Corporation, Aurangabad
Through Appropriate Authority,
Dr. Jaishree Jagannath Kulkarni,
Through Legal Advisor,
Aparna Krishnakumar Thete,
Age 40 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation, Aurangabad,
District Aurangabad. **... Applicant.**

Versus

1. The State of Maharashtra,
Through Secretary,
Department of Health Service,
Mantralaya, Mumbai-32.
2. Dr. Ramesh S/o Khushalchand Badjatya,
Age Major, Occu. Medical Practice,
Bhavana Nursing Home, Raja Bazar, Aurangabad,
R/o Bhavana Nursing Home,
Raja Bazar, Aurangabad. **... Respondents.**

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Advocate for Applicant/Petitioner : Mr. Latange V. P.
APP for Respondent-State : Mr. S. P. Deshmukh.
Advocate for Respondent No.2 : Mr. P. P. Patni h/f Mr. P. F. Patni.

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CORAM : S. G. MEHARE, J.
DATE : 03.07.2023

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally
by consent of the parties.

2. The Municipal Corporation, Aurangabad has preferred the present criminal revision application against the judgment and order of acquittal of the learned Chief Judicial Magistrate, Aurangabad in R.C.C.No.1636 of 2012, dated 25.04.2014 and confirmed by the learned Additional Sessions Judge-14, Aurangabad in Criminal Appeal No.97 of 2014, dated 29.06.2017.

3. A short point has been raised whether the complainant had an authority to initiate an action against the respondent under Section 28 of the PCPNDT Act.

4. Admittedly, the complainant was the Medical Officer of Health, Municipal Corporation, Aurangabad. In a similar situated case registered by the same Medical Officer Dr. Jayshree Kulkarni, the Division Bench of this Court in case of Dr. Paayal Vs. The State of Maharashtra and others, Criminal Writ Petition No.250 of 2015, dated 16.10.2015, held in paragraph No.33 of its judgment that the complainant Dr. Jayshree Kulkarni, Medical Officer, Health of Aurangabad Municipal Corporation was not at all competent to lodge the complaint against the applicant doctor (for the offences punishable under the PCPNDT Act) and finally the writ petition was allowed and the proceeding was quashed.

5. Learned counsel for the applicant has admitted this legal position. In view of that matter, the Court is of the opinion that the complainant Dr. Jayshree Kulkarni was not the authorized officer to initiate an action under Section 28 of the PCPNDT Act.

6. Both Courts, the orders of which have been impugned before this Court, have also taken the correct view. Hence, there appears no *prima facie* error on the face of record in the impugned judgments and orders. There are no grounds to interfere with the impugned judgments and orders. Hence, the following order :

ORDER

- (i) Criminal Revision Application stands dismissed.
- (ii) No order as to costs.
- (iii) Rule stands discharged.

(S. G. MEHARE, J.)

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vmk/-