

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
30 CRIMINAL APPLICATION NO.3121 OF 2022**

**DR. AVINASH RAMESH PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Pratik A. Bhosle Advocate h/f Mr. Rajesh H. Mewara,
Advocate & Mr. B. B. Nakte, Advocate for the applicant
Mrs. D. S. Jape, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 21st FEBRUARY, 2023

P. C.

1. Heard both the learned advocates for the parties.
2. The matter is taken up for final disposal by consent of the parties.
3. By way of this application, the applicant has challenged the order of issuance of process passed by the learned CJM, Nandurbar dated 19-04-2021 in RCC No. 101/2021. The applicant is doctor by profession who is having his clinic and he also runs a sonography centre. He obtained a valid license to run the sonography centre. The registration was valid from 23-10-2015 to 22-10-2020. Same remained to be

renewed as per Rule 8 of the PCPNDT Rules, 1996. On 22-03-2021 he realized that his license /registration has come to an end and he immediately made an application to respondent No.2 for renewal of the said license. Immediately thereafter on 24-03-2021 the respondent No. 2 issued notice and directed to get his centre verified. On the same day by another communication, he issued notice for violation of Rule 8 of the PCPNDT Rules by conducting a panchanama. On one hand after issuance of notice, he filed a complaint in the court of Learned CJM for violation of Rule 8 on 19-04-2021 and on the other hand the committee headed by respondent No. 2 decided to renew the said registration holding that due to inadvertence same was not renewed within time. It is specifically recorded by order dated 05-04-2021 even the sonography permission came to be cancelled. On 05-12-2022 however, same committee considered that the petitioner was facing difficult time due to covid-19 as he was busy in treating the patient. During that period he even lost his near relatives i.e. father-in-law and his brother and for that reason he could not apply for renewal of

registration.

4. It is seen that the respondent No.2 was convinced about genuine difficulty of the applicant. However, still he lodged a complaint against the applicant for violation of Rule 8 of the Rules under PCPNDT Act. On the complaint the learned Magistrate issued process and thus the petitioner is before this court.

5. Learned advocate for the petitioner vehemently submits that it was only due to inadvertence and as the petitioner himself was busy in the treating the covid-19 patients, he could not approach the authorities earlier in time for renewal of license. There is no any other violation of any other rules or allegation that he has deliberately violated the rules. He further pointed out that he was maintaining the record regularly and was also following all other rules and has not committed any violation of any of the section or rules under the PCPNDT Act attracting any penal provision except violation of Rule 8. He relied upon the judgment passed by this court in Criminal

Application No. 1279 of 2019 dated 04-10-2019 wherein this Court in the similar set of facts quashed the proceeding of the complaint. He submits that in that case this court has clearly observed that validity period was over and same was not renewed immediately. This court has also considered the effect of guidelines issued by the authorities. Guidelines No.16 of the guidelines issued by the Public Health Department expected from the appropriate authority to remind the concerned center regarding date of renewal, at least two months before the period of registration is to expire. He submits that in this case it is clear that these guidelines are not followed. This court in that case has observed that though the guidelines cannot be said to have mandatory effect however, still since authorities have taken a task to remind the doctor no fault can be found and certainly Dr. should not be criminally prosecuted. This court finds that in this case also a case is made out calling for interference in the matter. There is one more reason to interfere in the matter that it is a fact that the when registration was over that time corona was in full swing and immediately realizing the petitioner has filed an

(5)

criapln3121.22

application. Thus no fault can be found with the petitioner. For all these reasons the application is allowed in terms of prayer clause-C.

[KISHORE C. SANT, J.]

VishalK/criapln3121.22