



W.P.No.16394 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16394 of 2018

and

W.M.P.No.19549 of 2018

Dr.R.Gopinathan

... Petitioner

Vs.

1.The Medical Council of India,
Pocket 14, Sector 8, Dwaraka, Phase I,
New Delhi – 110 077.
Rep. by its President.

2.The Deputy Secretary,
Medical Council of India,
Pocket 14, Sector 8, Dwaraka, Phase I,
New Delhi – 110 077.

3.The Tamil Nadu Medical Council,
New No.914, Old No.569, Poonamallee High Road,
Arumbakkam, Chennai – 600 106.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the 1st respondent herein and signed by the 2nd respondent herein bearing MCI-211(2)(218)(7)/2014-Ethics/104941 dated 26.04.2018 and quash the same.



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For Petitioner : Ms.AL.Ganthimathi
Senior Counsel
For Respondents : Mrs.Shubharanjani Ananth
Standing Counsel [R1 & R2]
Mr.Neduncheziyan [R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent herein and signed by the second respondent herein bearing MCI-211(2)(218)(7)/2014-Ethics/104941 dated 26.04.2018 and quash the same.

2.The case of the petitioner is that the petitioner made a declaration before the Inspecting authority as if the Dr.Maria Jose Roderiquez is working in the Southern Institute of Medical Science, Trivandram, where the petitioner is working as a Dean. It is alleged that without her consent, her signature was affixed and photograph was also affixed in the form and forwarded the form and made a declaration as if the Dr.Maria Jose Roderiquez is working in the Southern Institute of Medical Science, Trivandram, where the petitioner is working as a Dean. As per the submissions of Dr.Maria Jose Roderiquez, it is arrived that she joined



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P.K.Dass Institute of Medical Sciences, Palacad on 07.02.2014 and the same was accepted by the accessor during the assessment on 04.06.2014.

The declaration form allegedly submitted by the petitioner on behalf of the Southern Institute of Medical Science, Trivandram does not bear the signature of the accessors. Therefore, Dr.Maria Jose Roderiquez was not accepted by the assessors during the assessment at Southern Institute of Medical Science, Trivandram, for which, disciplinary proceedings was initiated against the petitioner and the matter was referred to Ethics Committee and the Ethics Committee without providing any opportunity to the petitioner, passed the impugned order removing the petitioner's name from the Indian Medical Register for a period of three years. Challenging the same, the petitioner has filed the present writ petition before this Court for appropriate directions.

3.The learned counsel for the petitioner would submit that the present writ petition is filed, solely on the ground that, no opportunity was given before the Ethics Committee and without giving opportunity to the petitioner, the present impugned order is passed by the Executive Committee without accepting the recommendation made by the Ethics



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Committee is not sustainable. He would further submit that the valuable rights available to the petitioner is only before the Ethics Committee. It is the original adjudicating authority to adjudicate the issue in between the petitioner and the other persons and in view of the violation of principles of natural justice, this Court may set aside the impugned order and remand the matter back before the Ethics Committee for passing appropriate orders.

4.The learned Standing Counsel appearing for the respondents 1 & 2 would submit that the petitioner claimed that the address mentioned in the declaration form is the address while he was working as a Dean in the Institute. The petitioner claimed that he subsequently, resigned the post and however, the resignation letter was not placed before this Court and not communicated the same to the Ethics Committee, enabling the Ethics Committee to issue show cause notice to the petitioner and no resignation letter or relieving order was produced before this Court for substantiating the claim. In the absence of any communication to the Ethics Committee, the Ethics Committee conducted an enquiry and passed appropriate orders, which cannot be interfered with. Accordingly, he prayed for dismissal of this Writ Petition.



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5. Heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

6. Rendering any opinion on the merits of the case would adversely affect the interest of the petitioner. Even on bare perusal of the impugned order, reveals that no opportunity was given to the petitioner before the Ethics Committee.

7. In view of the above, the impugned order dated 26.04.2018 in MCI-211(2)(218)(7)/2014-Ethics/104941 is set aside and the matter is remanded back to the Ethics Committee of the respondent-Medical Council of India. Further, the petitioner is directed to appear before the Ethics Committee with all relevant documents on 12.04.2023 and the Ethics Committee as well as the Executive Committee is directed to hear the petitioner and pass appropriate orders within a period of eight weeks thereafter.



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M.DHANDAPANI, J.

sp

8.Accordingly, this writ petition is allowed with above terms. No costs. Consequently, the connected miscellaneous petition is closed.

28.03.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

Note: Issue order copy on **05.04.2023**.

To

- 1.The President,
Medical Council of India,
Pocket 14, Sector 8, Dwaraka, Phase I,
New Delhi – 110 077.
- 2.The Deputy Secretary,
Medical Council of India,
Pocket 14, Sector 8, Dwaraka, Phase I,
New Delhi – 110 077.
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