



WEB COPY



W.P.No.24982 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM

**THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mr.JUSTICE.V.LAKSHMINARAYANAN**

**W.P.No.24982 of 2014
and M.P.No.2 of 2014**

Dr.Kanthiah

... Petitioner

Vs

1) Medical Council of India,
Rep. By its Deputy Secretary/Administrative Officer,
Pocket – 14, Section -8.
Dwarka, New Delhi 110 077

2) Ethics Committee,
Medical Council of India,
Rep. By its Chairman,
Pocket – 14, Section -8,
Dwarka, New Delhi 110 077

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in connection with the impugned show cause notice in MCI-211(2)(620)(CBI-38)-Ethics/ dated 25.08.2014 on the file of the first respondent and quash the same.



WEB COPY



W.P.No.24982 of 2014

For Petitioner : Mr.N.Senthilkumar
For R-1 : Mrs.Shubharanjani Ananth,
Standing Counsel

ORDER

(The order of the Court was made by **J.NISHA BANU, J.** and
V.LAKSHMINARAYANAN, J.)

This writ petition challenges the show cause notice issued by the Medical Council of India, making certain allegations against the doctor.

2. Mr.N.Senthilkumar, learned counsel for the petitioner would submit that the concerned Authority to initiate action is only the State Medical Council and not the Medical Council of India.

3. This very question was put in issue before the Division Bench of the Bombay High Court in W.P.No.11429 of 2012 (AS)...etc. in a batch. By a detailed judgment, the Bombay High Court had dismissed the writ petitions, holding as follows:-

“37. We are in complete agreement, therefore,



W.P.No.24982 of 2014

with Mr.Gole that the Council has original and appellate power as well in terms of the IMC Regulations. Once these Regulations and all the chapters thereof are read together and harmoniously, it is evident that nothing which is a misconduct or an infamous conduct, can go without a disciplinary enquiry and unpunished. If the larger public interest is to be served and bearing in mind the role of medical practitioners and physicians, then such comprehensive regulations and measures have to be enacted. Having enacted them, a meaning will have to be placed on its clauses enabling the Councils to deal with the misconduct and/or infamous acts. That would be advancing the remedy. A narrow or restricted interpretation is likely to frustrate and defeat the IMC Act itself. Therefore, we are not in agreement with the learned counsel for the Petitioners insofar as the jurisdiction, power and authority of Council are concerned.”

4. The said matter was put in appeal before the Hon'ble Supreme Court of India in SLP(Civil) No.32464 of 2015. The Hon'ble Supreme Court, by an order dated 30.11.2015 had declined to entertain the SLP and the SLP was dismissed.



W.P.No.24982 of 2014

WEB COPY

5. We have independently gone through the provisions and we are of the firm view that the erstwhile Medical Council of India had the power, both original as well as appellate, in matters of discipline. We therefore come to a conclusion that the Medical Council of India had the jurisdiction to issue the show cause notice. At the stage of challenge to a show cause notice, we cannot go into the merits of the allegations made by the petitioner. The petitioner can raise the issue of jurisdiction alone. That argument failing, the writ petition has to fail.

6. Having being satisfied with the jurisdiction, we are of the view that the petitioner may submit his explanation, if not already submitted. The State Ethics Committee, which is a body under the State Medical Council, pursuant to the show cause notice that has been issued, shall initiate and complete the disciplinary proceedings, in terms of Section 27 of the National Medical Commission Act, 2019.

7. In case response has not been submitted, then, the response shall be



W.P.No.24982 of 2014

WEB COPY

submitted within a period of four(04) weeks from today, i.e. 04.09.2023. It is open to the writ petitioner to raise all contentions excepting those relating to jurisdiction as it has been concluded by an order of this Court. The entire exercise shall be completed by the second respondent within a period of twelve(12) weeks thereafter. With the above directions, this Writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B.,J.) (V.L.N.,J.)
04.09.2023

Index:Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes / No
sts

To:

- 1) The Deputy Secretary,
Medical Council of India,
Pocket – 14, Section -8,
Dwarka, New Delhi 110 077
- 2) The Chairman,
Ethics Committee,
Medical Council of India,
Pocket – 14, Section -8,
Dwarka, New Delhi 110 077



WEB COPY



W.P.No.24982 of 2014

J.NISHA BANU,J.
and
V.LAKSHMINARAYANAN,J.

sts

Order made in
W.P.No.24982 of 2014

Dated:
04.09.2023