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W.P.Nos.19139 to 19140 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.Nos.19139 to 19140 of 2014
and M.P.No.1 of 2014(in both W.P.'s)**

Dr.N.Muralidharan ... Petitioner in W.P. No.19139/2014

Dr.C.Sathyan ... Petitioner in W.P. No.19140/2014

Vs

1) Medical Council of India,
Rep. By its Deputy Secretary,
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 in both writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the impugned orders in No.MCI-211(2)(620)(CBI-8)/2012-Ethics/107704 dated 17.05.2014 and No.MCI-211(2)(620)(CBI-8)/-Ethics/



W.P.Nos.19139 to 19140 of 2014

118548 dated 08.07.2014 and No.MCI-211(2)(620)(CBI-5)/2012-Ethics/107694 dated 17.05.2014 and No.MCI-211(2)(620)(CBI-5)/-Ethics/118599 dated 08.07.2014 on the file of the first respondent and quash the same.

In all cases:

For Petitioners : Mr.D.R.Arunkumar

For R-1 : Mrs.Shubharanjani Ananth,
Standing Counsel

COMMON ORDER

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

Since the issue involved in all these writ petitions are one and the same, they are disposed of by this common order. These writ petitions challenge the show cause notices issued by the Medical Council of India, making certain allegations against the doctors.

2. Mr.D.R.Arunkumar, learned counsel for the petitioners, in all the writ petitions, 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



W.P.Nos.19139 to 19140 of 2014

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, 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.”



W.P.Nos.19139 to 19140 of 2014

WEB COPY

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.

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 petitioners. The petitioners can raise the issue of jurisdiction alone. That argument failing, the writ petitions have to fail.

6. Having being satisfied with the jurisdiction, we are of the view that the petitioners may submit their explanation, if not already submitted. The State Ethics Committee, which is a body under the State Medical Council,



W.P.Nos.19139 to 19140 of 2014

pursuant to the show cause notices that have 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 submitted within a period of four(04) weeks from today, i.e. 04.09.2023. It is open to the writ petitioners 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 petitions are closed.

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

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

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W.P.Nos.19139 to 19140 of 2014

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

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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

Common Order made in
W.P.Nos.19139 to 19140 of 2014

Dated:
04.09.2023