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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3087/2024**

**DR ROBIN MALIK & ANR.**

.....Petitioners

Through: Mr. N. Chaudhary, Advocate.

versus

**GOVT OF NCT OF DELHI**

.....Respondent

Through: Mr. Udit Malik, ASC with Mr. Vishal Chanda, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**06.11.2024**

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1. The Petitioners assert that they are duly elected candidates of Delhi Dental Council<sup>1</sup> under the Dentist Act, 1948.<sup>2</sup> Their grievance arises from the fact this elected body (DDC) has not been notified. They emphasize that, as a result, important statutory functions remain unaddressed, particularly the adjudication of complaints against dentists. This non-operational Council, they argue, impacts the dental professionals in the state.

2. Upon the expiry of the term of last elected DDC, the Government of NCT of Delhi,<sup>3</sup> on 5<sup>th</sup> January 2022 notified<sup>4</sup> the approval for initiation of the elections of the DDC under section 3(a) and 21(a) of the Dentists Act, 1948. The Petitioners herein are some of the persons elected in this election.

3. On 26<sup>th</sup> May, 2023, in writ petition bearing no. W.P.(C) 5075/2021 titled *Ms. Kriti Kaushik v. Delhi Dental Council*, the Court recorded the submission advanced by DDC and held as follows:

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<sup>1</sup> "DDC"

<sup>2</sup> "Act"

<sup>3</sup> "GNCTD"



- “1. This hearing has been done through hybrid mode.*
- 2. It is submitted by Id. Counsel for the Respondent - Delhi Dental Council (DDC) that submissions have been heard in respect of the recent elections of the DDC, by the Lt. Governor, and orders regarding the same are awaited.*
- 3. Upon the decision by the Lt. Governor being taken, the DDC shall be constituted expeditiously, failing which the concerned official shall be held responsible in the matter.*
- 4. List on 25<sup>th</sup> August, 2023.”*

4. However, nothing further transpired and as a result, the Council has not been notified.

5. In the above background, Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking directions to the Respondent to constitute the DDC by notifying the members elected in 2022<sup>5</sup> in accordance with the circular of GNCTD dated 05<sup>th</sup> January, 2022.

6. It is relevant to note here that the 2022 DDC elections became the subject of an election dispute, which was later adjudicated by the Hon’ble Lt. Governor. This dispute culminated in an order dated 26<sup>th</sup> July, 2023, dismissing the appeal that sought to challenge the election results. Throughout this period, with the dispute unresolved, the Council remained inoperative, and essential functions were left unattended.

7. Mr. Udit Malik, ASC, GNCTD, submits that the concerns highlighted by Petitioners was brought to the notice of Hon’ble Lt. Governor. On 11<sup>th</sup> August, 2023, the file was put up before the Minister of Health, GNCTD and again forwarded to Hon’ble Lt. Governor and then to the Special Secretary of the Hon’ble Lt. Governor. During this review, the following

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<sup>4</sup> Circular bearing no. F.135/H&FW/2021/Council/DDC/6337-44

<sup>5</sup> “DDC 2022”



note dated 21<sup>st</sup> November, 2023 was made:

*“267. Hon’ble Lt. Governor has perused the proposal of Health Department outlined at para 226 (page-72/N) regarding constitution of Delhi Dental Council under Section 21 of Dentists Act, 1948 and noted that the Ministry of Law and Justice, Government of India, on 11.08.2023, has notified “The National Dental Commission Act, 2023”, Section 26(1) of which delineates composition for State Dental Council.*

*268. In light of these significant legal developments, Hon’ble Lt. Governor has desired that the Health Department, in consultation with the Law Department, re-examine the proposal and submit the same accordingly.”*

8. In view of directions passed by the Hon’ble Lt. Governor, the matter was reviewed by the Respondent. To facilitate the smooth functioning of the DDC, a proposal was submitted on 17<sup>th</sup> January, 2024, to the Minister of Health, GNCTD. This proposal suggested the formation of an Ethics Committee, composed of *ex-officio* members of the DDC, to oversee daily operations. However, on 31<sup>st</sup> January, 2024, the Minister of Health provided advise on the proposal as follows:

*“292. Hon’ble Lt. Governor had desired that in light of notification of “The National Dental Commission Act, 2023” by the Central Government, the proposal at para 228(A) & (B) may be re-examined by Health Department in consultation with Law Department (Reference para 267-268 on page-82/N).*

*293. Further, Section 29(1) of the National Dental Commission Act, 2023 states as below:*

*“....The State Government shall, within one year of the commencement of this Act, take necessary steps to establish a State Dental Council.....”*

*294. Instead of taking necessary steps of establishing a State Dental Council under the said Act, the Department has proposed constitution of an Ethics Committee.*

*295. It is advised that the matter may be re-examined.”*

9. The file was then sent to Law Department with request to opine whether body of DDC in terms of the Act may be constituted since a State



Dental Council in terms of the National Dental Commission Act, 2023 is to be constituted. The Law Department *vide* note dated 19<sup>th</sup> February, 2024 advised as follows:

*“312. It seems that the new Act is yet to come into force. Meaning thereby, sans the notification for coming into force of the new Act, the provisions of Old Act i.e the Dentists Act, 1948 would be applicable. However, the administrative, Department may also seek status of any such notification from Central government Advised accordingly.”*

10. As advised by the Law Department, a letter dated 01<sup>st</sup> March, 2024 was sent to Legislative Department, Ministry of Law and Justice, requesting information on whether the Central Government had issued the notification bringing the National Dental Commission Act, 2023, into force. In response dated 05<sup>th</sup> March, 2024, the Ministry of Law and Justice informed that the Ministry of Health and Family Welfare is the administrative Ministry for administration of the National Dental Commission Act, 2023 and asked to consult them on this issue. Accordingly, a letter dated 12<sup>th</sup> March, 2024 was sent to Ministry of Health & Family Welfare, with request to furnish the aforesaid information. The Ministry of Health & Family Welfare, *vide* its letter dated 09<sup>th</sup> April, 2024 informed that the Ministry has already notified the National Dental Commission Act, 2023 on 11<sup>th</sup> August, 2023 and the National Dental Commission Rules, 2024 in the Gazette of India. In fact, advertisement for filling up the various posts of National Dental Commission has also been published in the Employment news/newspapers. Further, Government of NCT of Delhi was urged by Ministry of H&FW, to take necessary steps for the establishment of the State Dental Council as per section 29 of the National Dental Commission Act, 2023.

11. In view of the confirmation that the National Dental Commission Act,



2023 had been notified, GNCTD has now moved forward with establishing the State Dental Council as per Section 29 of the National Dental Commission Act, 2023. To this end, GNCTD has constituted a Committee tasked with formulating the rules to implement the provisions of Sections 29 and 48 of the National Dental Commission Act, 2023. The Court is apprised by counsel for GNCTD that the law department has provided comments on the rules framed and the same have been sent to the relevant department for vetting.

12. Despite the aforementioned developments, the Petitioners urge that the Respondent should be directed to notify the elected members of the DDC 2022.

13. This Court, however, does not find any ground to issue a *mandamus* to the effect requested by Petitioner. It is pertinent to note that this issue has been brought to the attention of Hon'ble Lt. Governor, who observed that, with the National Dental Commission Act 2023 now in force, efforts should focus on constituting the Council under the new Act. The notification of the new Act indeed signals a legislative shift. Moreover, as outlined above, GNCTD has commenced the process of establishing the State Dental Council under Sections 29 and 48 of the National Dental Commission Act, 2023, which mandates the formation of State Councils in line with the new national framework.

14. The framework under the National Dental Commission Act, 2023 envisions a different updated regulatory framework and construction of the Council. This renewed structure aims to decentralise authority and enhance effective regulation. The new Act is not merely a revision but a comprehensive overhaul dental education and professional landscape



intended to bring it at par with international standards. In the Court's view, directing notification of the 2022 DDC under transitional provisions would not serve the long-term objectives of the National Dental Commission Act, 2023, which repealed the earlier Act. Therefore, all efforts should now be concentrated on establishment of the State Dental Council under the new Act, ensuring that the Council is constituted and operational as swiftly as possible to fulfil its regulatory mandate effectively.

15. The Court is fully cognizant of the challenges created by the absence of a functional Council, particularly in regulating professional standards and addressing complaints against practitioners. However, since significant steps have been taken towards the establishment of State Dental Council, in the opinion of the Court, the endeavour should now be to have the Council under the new Act in place, as expeditiously as possible.

16. The Court must emphasize the importance of prioritizing this process, ensuring the new Council is constituted and functional at the earliest possible date to meet the statutory requirements. Having regard to the aforementioned facts, the present petition is disposed of with a direction to the Respondent to establish the State Dental Council under the National Dental Commission Act 2023 as expeditiously as possible, preferably within 6 weeks from today.

17. With the above direction, the present petition is disposed of.

**SANJEEV NARULA, J**

**NOVEMBER 6, 2024**

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