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

Date of Decision: 5th September, 2024

+ **W.P.(C) 16402/2022 & CM APPL. 51479/2022**

AR BELA AGRAWAL

.....Petitioner

Through: Mr. Srijan Sinha, Mr. Himanshu
Chaubey, Mr. Sidharth Garg and Mr.
Srajan Yadav, Advocates.

versus

COUNCIL OF ARCHITECTURE AND ORS

.....Respondents

Through: Mr. Naveen R. Nath, Senior Advocate
with Mr. Arjun Basra and Ms. Disha
Gupta, Advocates for R-1.
Mr. Rajnish Sinha, Ms. Shelly
Khanna, Mr. Stawan Khara and Mr.
Mehul Chaudhary, Advocates for R-2
& 3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Bela Agrawal, the Petitioner, is an Architect by profession and is registered with Respondent No. 1 - Council of Architecture¹ under the provisions of the Architects Act, 1972². Aggrieved by the decision of the Council to suspend her from practice for a period of one year, based on a complaint filed by Respondents No. 2 and 3, the Petitioner has approached this Court under Article 226 of the Constitution of India, 1950, challenging

¹ "Council"



the validity of the said suspension order. The Petitioner contends that the impugned decision is arbitrary, unreasonable, and in dereliction of the principles of natural justice.

FACTS AND CONTENTIONS:

2. Mr. Srijan Sinha, counsel for the Petitioner presents the following facts and contentions which led to the filing of the present writ petition:

2.1. The Madhya Pradesh Government planned to set up a Medical Science University in Jabalpur.³ In this regard, they issued an open tender for empanelling Detailed Project Report Consultants⁴ for any or all projects overseen by the Madhya Pradesh Public Works Department⁵ at Jabalpur. The Petitioner emerged as the successful bidder and was appointed as the DPR Consultant with the Project Implementation Unit, MPPWD⁶ for the period of one year *vide* Letter of Acceptance dated 1st November, 2017.

2.2. As per the scope of work defined in the tender documents, Petitioner was responsible for preparing DPRs for projects assigned to her only on the basis of the designs provided by MPPWD. One such project assigned to the Petitioner was with respect to the Medical Science University to be established in Jabalpur. She asserts that originality or creation of the designs had no relevance to her role and there was no ambiguity as to her mandate being solely to carry out the DPR analysis based on the designs provided by MPPWD, and accordingly she collected the concept design from them for the said analysis.

2.3. During the execution of her mandate, the Petitioner was contacted by

² “Architects Act”

³ “Project”

⁴ “DPR Consultants”

⁵ “MPPWD”



Respondent No. 2 – Arcop Associates, who claimed that they had an existing Architectural Service Agreement dated 9th October, 2014 with MPPWD for the Medical Science University project and that the Petitioner should not have accepted the said work. In response, the Petitioner clarified that she was not the Architect for the project, but rather had merely been asked to prepare the DPR by MPPWD which she completed based on the designs provided and submitted it to the relevant authorities as per the tender awarded to her. She also clarified her lack of awareness regarding any existing agreement between MPPWD and Respondent No. 2 related to the project and requested Respondent No. 2 to refrain from unnecessary harassment.

2.4. Despite this clarification, Respondent No. 2 issued a communication alleging that the Petitioner had engaged in plagiarism and subsequently, Respondent No. 3 – the Director of Respondent No. 2 company, filed a complaint with the Council dated 21st June, 2019, alleging that the Petitioner had plagiarized their architectural designs for the project and presented them as her own work. Additionally, Respondent No. 3 accused the Petitioner of knowingly accepting the assignment from MPPWD despite the existence of an architectural services contract for the same scope of work. Therefore, Respondent No. 3 alleged that the Petitioner had violated Clause 2(1)(xv) of the Architects (Professional Conduct) Regulations, 1989⁷, which prohibits architects from accepting work that conflicts with existing contracts.

2.5. On receipt of a notice for the said complaint, the Petitioner submitted a detailed pointwise response dated 9th July, 2019 to the Council, explaining

⁶ “PIU”

⁷ “Regulations”



the facts in detail. Simultaneously, Respondent No. 3 also issued a legal notice to the Petitioner, threatening to initiate civil and criminal action.

2.6. On 31st August, 2021, Respondent No. 1 referred a complaint against the Petitioner to the Disciplinary Committee. Subsequently, the Petitioner and Respondent No. 3 sent communications to Respondent No. 1 to substantiate their claims and contentions on the alleged misconduct of the Petitioner.

2.7. In light of the above, the Disciplinary Committee conducted a hearing in the matter and issued a report dated 2nd February, 2022, dismissing the allegations against the Petitioner in terms of violations of Clauses 2(1)(v), (viii), (xiii), and (xv) of the Regulations. However, the Petitioner was found guilty of violating Clause 2(1)(x) of the Regulations, even though this was not a pleaded case of Respondents No. 2 and 3.

2.8. Thereafter, the Council accepted the Disciplinary Committee's report on 22nd July, 2022, and directed the parties to appear before them for further deliberations. Later, through communication dated 25th November, 2022⁸, Respondent No. 1 informed all members of the Council of the Minutes of Meeting dated 7th November, 2022, whereby one of the agenda points discussed the complaint against the Petitioner. Through the said Minutes of Meeting, the Council decided to suspend the Petitioner from practicing as an Architect for 12 months and directed her to surrender her certificate of registration.

2.9. Aggrieved by this decision, the Petitioner submits that the order passed by the Council is in violation of the principles of natural justice as the complaint of misconduct alleged to be committed by the Petitioner was



specifically under Regulations 2(1)(v),(viii), (xiii) and (xv), however, the final report of the Disciplinary Committee held the Petitioner guilty of violating Regulation 2(1)(x), which was not previously informed to the Petitioner and therefore she was not provided an opportunity to respond. Furthermore, the entire proceedings conducted by Respondent No. 1 were in contravention to Section 30 of the Architects Act read with Rule 35(7) of the Council of Architecture Rules, 1973, wherein the Council, on receipt of a complaint for enquiry has to form a *prima facie* opinion on the same before referring it to the Disciplinary Committee. As such, the proceedings are void *ab initio*.

3. On the other hand, Mr. Naveen R. Nath, Senior Counsel for Respondent No. 1, strongly defends the impugned order, contending that it aligns with the provisions of the Architects (Professional Conduct) Regulations. He submits that the Disciplinary Committee, after a thorough investigation, found the Petitioner guilty of professional misconduct. Specifically, the Petitioner accepted an appointment for a project where another Architect, Respondents No. 2 and 3, were already employed. She could not contradict the allegations of the Respondents that the architectural drawings prepared by them were being passed off as her own. Therefore, the Petitioner's conduct is in clear violation of Regulations 2(1) (x) and (xv) of the Regulations. Mr. Nath further emphasized that Petitioner's actions have undermined the professional integrity of the Architect profession and established norms of practice. He further argues that the Regulations are designed to protect the sanctity of professional relationships and to ensure that Architects conduct themselves with transparency and respect toward

⁸ "Impugned decision"



their peers. As such, given that the Petitioner failed to notify Respondents No. 2 and 3 before accepting the appointment and allegedly used their work as her own, the disciplinary action is both justified and proportionate to the misconduct identified by the Disciplinary Committee.

4. Mr. Rajnish Sinha, counsel for Respondents No. 2 and 3 argues that the Petitioner is unequivocally guilty of professional misconduct under the Architects (Professional Conduct) Regulations. He urges that the Petitioner has engaged in plagiarism by using the architectural designs created by Respondents No. 2 and 3 and presenting them as her own, a clear violation of ethical standards. Mr. Sinha maintains that this act of plagiarism, in itself, constitutes a serious breach of professional ethics, warranting disciplinary action. He contends that the decision to suspend the Petitioner from practice is therefore fully justified and in strict conformity with the regulatory provisions intended to safeguard the integrity of the architectural profession.

IMPUGNED FINDINGS AND THE RELEVANT REGULATIONS

5. The Court has heard the counsel for the Parties at considerable length. Before advertng to the analysis of the contentions urged by the counsels, it is important to take note of the impugned findings and the relevant regulations. The impugned report of the Disciplinary Committee dated 2nd February, 2022 is as follows:

“This matter was taken up for hearing on 15.09.2021, 12.10.2021, 30.11.2021 and 24.01.2022.

On the hearing held on 24.01.2022, Both, the Complainant and the Respondent Architect were present online. The Committee requested the Respondent Architect to clarify the email dated 20.01.2022 sent by her wherein she has referred to letter dated 05.04.2018 of Divisional Project Engineer, PWD, PIU, Jabalpur.

The Respondent Architect submitted that she has visited the PWD office and the concerned officers told her that the drawing given to her by the department cannot be endorsed now. Hence, she is unable to



provide drawings endorsed by the PWD.

She requested the Committee to allow her to re-present the facts once again in the matter. Accordingly, the Committee allowed her to make her submissions.

She shared documents related to her appointment by the PWD as DPR Consultant and other related documents. She stated that she is not the Architect for the said project, she is only the DPR Consultant. The projects drawing was provided by PWD and not designed by her office. The Complainant had contract with PIU, MPPWD and she was not connected with the same in any manner. Her fees for the project is merely for 8.5 lakhs. She also stated she has worked with many senior architects and have never indulged in any malpractice. If any, lapse is observed on her part may be because of her experience and exposure. She further stated that in case any mistake is committed by her she tenders her apology to the Complainant.

The Committee, thereafter, requested the Complainant to present his views in the matter. The Complainant stated that the MPPWD follows the norms of COA in appointment of Architects. The Respondent Architect should have followed the code of conduct prescribed by the Council She was fully aware that all the project drawing are in the name ARCOP and ARCOP was the project architect. However, she knowing fully that an existing architect is working on the project took up the project and violated the Council norms.

The Complainant specifically pointed out to the Respondent Architect that he was Architect on record of the project. The Respondent Architect did not respond to his communications in the past and also did not disassociate from the project. However, she continued to work on the project and violated his copyright by using the drawing and plans submitted by him.

The Respondent Architect clarified that the MPPWD has issued a letter dated 05.04.2018 that the project is now being handled by the department itself. Both, the Complainant and the Respondent Architect were present online.

A copy of this communication was also marked to ARCOP and ARCOP failed to counter such communication and object to the same. Thus, she has not committed any misconduct and has rendered services as DPR Consultant and not as an Architect.

The Committee asked both the parties whether they have anything further to add to which both the parties replied they have nothing further to add and the Committee can take decision on the basis of the documents available in the records.

The Committee after examination of the Complaint, Statement of Defence and other documents on the records and submissions made before the Committee concludes that the Respondent Architect after receipt of the communication from the Complainant that he is architect



of the project should have brought the same to the notice of MPPWD/PIU as well as the Complainant that she is only DPR Consultant and not Architect of the project, as a co-professional which she failed to do and did not reply to the communication of the Complainant.

Thus, the Respondent Architect is found guilty of Professional Misconduct for violating Regulation 2(1)(x) of the Architects (Professional Conduct) Regulations 1989.”

6. The relevant extracts of the Council’s Minutes of Meeting dated 7th November, 2022, deliberating upon the findings of the Disciplinary Committee to hold the Petitioner guilty, are as follows:

“The Council also perused the Report of the Disciplinary Committee and noted the findings of the Committee that Respondent after receipt of communication from the Complainant that he was architect of the project should have brought the same to the notice of the MPPWD/ PIU Jabalpur as well as the Complainant that she was only DPR Consultant and not Architect of the project.

The Council also noted that the Respondent Architect was provided sufficient time and opportunity by the Disciplinary Committee during its investigation and proceedings held on 15.09.2021 and 12.10.2021 to submit drawings /concept plan prepared / developed by PIU with signature) along with forwarding letter/ communication as received from the PWD/PIU/Client, however no such documents were produced by her. Thus, the Disciplinary Committee concluded that as a co-professional the Respondent Architect failed to do what is required of her as per COA Regulations and was accordingly found guilty of professional misconduct.

The Council members deliberated in detail and after going through the Complaint, Statement of Defence and Report of Disciplinary Committee and other documents found the Respondent Architect guilty of Professional Misconduct.

The Council informed the Respondent Architect that she has been found guilty of violation of Regulation 2 (1) (x) and (xv) of the Architects (Professional Conduct) Regulations, 1989. The Council further granted the Complainant and Respondent Architect an opportunity to make submissions on quantum of punishment before any punishment is announced.

The Complainant sought maximum punishment as the Respondent deliberately violated the code of conduct and ethics. The Respondent requested that she may be warned or reprimanded as it her instance and he is in profession from last so many years.



The Council after detailed deliberations in the matter Ordered as under:

- 1. The Respondent Architect is hereby **Suspended from practice as an Architect for a period of 12 months;***
- 2. The Respondent Architect shall surrender the Certificate of Registration issued by the Council within 30 days of receipt of the Order from Council; and*
- 3. A copy of the Order of Council be provided to the concerned local body/ authority.”*

7. The relevant extracts of the contended Regulations 2(1) (x) and 2(1) (xv) of the Architects (Professional Conduct) Regulations, 1989 are as follows:

“2 (1) (x) conduct himself in a manner which is not derogatory to this professional character, nor likely to lessen the confidence of the public in the profession, nor bring Architects into disrepute.

...XX..

...XX..

...XX..

2(1) (xv) not attempt to obtain, offer to undertake or accept a commission for which he knows another Architect has been selected or employed until he has evidence that the selection, employment or agreement has been terminated and he has given the previous Architect written notice that he is so doing: provided that in the preliminary stages of works, the Client may consult, in order to select the Architect, as many Architects as he wants, provided he makes payment of charges to each of the Architects so consulted.”

ANALYSIS AND FINDINGS

8. Upon examination of the material on record, it is evident that the Disciplinary Committee initially found the Petitioner guilty solely of violating Regulation 2(1)(x) of the Architects (Professional Conduct) Regulations. Respondent No. 1's communication dated 22nd July, 2022, accepting the findings of the Disciplinary Committee, is also confined to Regulation 2(1)(x). However, in the impugned Minutes of the Meeting dated 7th November, 2022, Respondent No. 1 expanded the scope of the Committee's findings by additionally holding the Petitioner guilty of



violating Regulation 2(1)(xv) as well. Thus, at no point prior to this was the Petitioner informed that she was being charged with violating any provision other than Regulation 2(1)(x) in the proceedings before the Council. She was not afforded any opportunity to address or defend herself against the additional charge under Regulation 2(1)(xv) before the Council, thereby constituting a significant procedural infirmity in the proceedings. In light of the above, the Court observes that the decision to expand the findings of the Disciplinary Committee to include a violation of Regulation 2(1)(xv) without prior notice or opportunity to the Petitioner to respond undermines the fairness of the disciplinary proceedings and indicates a failure to adhere to the principles of natural justice.

9. Moreover, the Court finds no substantive basis in the records to support the conclusion that the Petitioner was guilty of violating either Regulation 2(1)(x) or 2(1)(xv) of the Professional Conduct Regulations. The impugned Minutes of Meeting reveals no meaningful deliberation or discussion on the specific allegations against the Petitioner. Instead, the Council appears to have accepted the complainant's assertions at face value, without conducting an independent evaluation of the facts or considering the Petitioner's detailed submissions and supporting documentation.

10. The Council disregarded the Petitioner's documents which she cited to prove that the designs were provided by MPPWD and were not her original works. Petitioner's explanation of her limited role and scope of engagement only for preparing the DPR, based on the designs supplied by MPPWD was also not discussed or evaluated by the Council. Further, there is no material on record to show that the Petitioner knowingly and unlawfully used the designs of Respondent No. 3. As such, the Council's



conclusions appear to have been reached without a fair examination of the critical facts, which is essential component in such disciplinary proceedings.

11. The contentions raised in the Council's counter-affidavit filed in the present case, which were not part of the impugned Minutes of Meeting, raise concerns regarding the procedural fairness of the decision-making process adopted by them. Some of the averments are extracted below:

“ii. The contents of paragraph (ii) indicate that the Petitioner was fully aware of the appointment of the Respondent No. 3 as an Architect for providing Architectural Services for the project of MPPWD and she chose to work on the same project using the drawings and designs provided by the Respondent No. 3. She could not produce any document that drawings were made or provided by the client i.e. MPPWD – Respondent No.4 herein

*iii. The contents of paragraph (iii) are a matter of record. It is pertinent to mention that the appointment of Respondent No. 3 includes the scope of work as preparation of Detailed Project Report (DPR) and accordingly he prepared such report. **Acceptance of Appointment by the Petitioner as DPR consultant without termination of services of the Respondent No. 3 and without payment of fee by the client is in violation of Regulation 2(1)(xv) of the Architects (Professional Conduct) Regulations, 1989.***

v. The contents of paragraph (v) are denied. The Petitioner failed to provide any documentary evidence during the investigation by the Disciplinary Committee to prove that the designs used by the Petitioner were the original work of the Petitioner or created or provided by the MPPWD – Respondent No.4. She could neither provide any letter or any inward or outward of MPPWD on the drawings/documents showing that the drawings were issued by the MPPWD to her. Though she has used those drawings and written her name. The complaint submitted to Council shows the name of Petitioner on the Drawings/Plans similar to the ones prepared by Respondent No. 2 & 3.”

[‘Emphasis added’]

12. From the above extract, it is observed that the Council's counter-affidavit introduces several justifications for its decision that were neither deliberated upon nor documented in the impugned Minutes of Meeting, suggesting a *post facto* attempt to rationalize their conclusions. This raises



significant doubts about the objectivity and fairness of the Council's decision-making process. For example, the counter-affidavit alleges that the Petitioner was fully aware of Respondent No. 3's appointment as the project architect, and yet she chose to work on the same project, using Respondent No. 3's drawings and designs without proper authorization. This assertion is just the version of Respondent No. 3 which is not substantiated by any evidence on record or referenced in the impugned minutes.

13. The Council has held that the Petitioner failed to provide documents proving that the designs were supplied by MPPWD, implying misconduct on her part. However, this finding overlooks the critical fact that the Petitioner was not engaged as an Architect for the project but was specifically appointed as a DPR consultant through a tender process. Her role was explicitly defined to prepare the DPR (Detailed Project Report) based on the designs provided by MPPWD. The Council's expectation that the Petitioner should have provided additional evidence disregards her contractual obligations and unjustly shifts the burden of proof onto her, without any supporting evidence from the complainant to substantiate the allegations of misconduct. Moreover, the Council's insistence that the Petitioner should not have accepted the appointment as a DPR consultant without the prior termination of Respondent No. 3's services and payment of fees by MPPWD is entirely arbitrary and lacks any sound basis. It is MPPWD who as a contracting party first entered into an agreement with Respondents No. 2 and 3 and subsequently floated a tender seeking DPR Consultancy services in which the Petitioner participated. The Council's findings of misconduct ignores this fundamental aspect. By doing so, the Council has accepted the complainant's contentions without taking into account the Petitioner's status



as an empanelled DPR consultant selected through an independent transparent tendering process conducted by a government agency.

14. It is also evident that the Council has, inappropriately, ventured into adjudicating issues of copyright and design infringement which are matters beyond its mandate under the Architects (Professional Conduct) Regulations. Such an adjudication falls outside the jurisdiction of the Council as it is not a Court of law or an Adjudicatory Tribunal who can assess such allegations. The observation that the Petitioner used Respondent No. 3's drawings is plainly speculative, without any concrete evidence. The lack of any coherent reasoning or reference to these points in the impugned Minutes of Meeting further underscores the arbitrary nature of the Council's findings.

15. Regulation 2(1)(x) of the Architects (Professional Conduct) Regulations requires maintaining public confidence by ensuring Architects conduct themselves in a manner that does not bring disrepute to the profession. Regulation 2(1)(xv) specifically prohibits an Architect from accepting a commission where another Architect is already employed, unless there is clear evidence of termination of the previous employment and notice is given to the previous Architect regarding the same. In the present case, the findings relating to violation of Regulation 2(1)(x) are premised on the assumption that the Petitioner acted as an Architect rather than as a DPR Consultant, despite her consistently clarifying that she was hired only to prepare a DPR, which was distinct from the architectural services being provided by Respondent No. 2 and 3.

16. The communication dated 5th April, 2018, from the Office of the Divisional Project Engineer, Public Works Department (PIU), Jabalpur,



which is placed on record by the Petitioner is crucial in clarifying the Petitioner's role and evidently the disengagement of Respondent No. 2's services. The letter explicitly states that the designs for the project were to be prepared 'in-house' by the MPPWD, thereby indicating that the responsibility for architectural design had been taken over by the Chief Architect of MPPWD. This suggests that the contractual relationship between Respondent No. 2 and MPPWD may have been effectively terminated at that point. The Petitioner, appointed as a DPR consultant under a separate contractual arrangement, was operating under the direct instructions of the MPPWD. Therefore, the grievance of Respondent No. 2 appears to stem from a loss of their engagement with MPPWD, rather than any professional misconduct by the Petitioner. The Council, in this context, has overstepped its jurisdiction by assuming that the Petitioner acted improperly in accepting payment from MPPWD. Pertinently, if Respondent No. 2 had any dispute over the termination of their services, it should have been directed towards MPPWD rather than unfairly targeting the Petitioner, who was merely fulfilling her obligations under a legitimate contract. Furthermore, if the Respondents No. 2 and 3 perceived that the Petitioner had indulged in copyright or design infringement, they should have approached the Court of competent jurisdiction or an appropriate forum for agitating these claims.

17. The Court must also consider the principle of proportionality in evaluating the Council's decision to suspend the Petitioner from practice for one year. The impugned decision effectively deprives the Petitioner of her right to practice her profession, which is a severe penalty, particularly given the lack of substantial evidence of any serious professional misconduct. The



Council's determination appears to hinge primarily on the Petitioner's acknowledgment during the proceedings, where she expressed willingness to accept a reprimand, not as an admission of guilt, but rather as a measure to preserve her professional standing and avoid further controversy. Such a gesture, demonstrating a readiness to cooperate and an understanding of professional ethics, should not have been interpreted as a basis for imposing such a harsh sanction.

18. While the Council undoubtedly has the authority to regulate professional conduct, and the Courts would ordinarily not interfere with their discretion, the impugned decision is manifestly arbitrary that warrants intervention. The Council ought to have exercised their power judiciously and in a manner that is proportionate to the gravity of the alleged misconduct. In this case, the grounds for finding the Petitioner guilty were flimsy at best, relying on unsubstantiated allegations and without any clear evidence that she acted dishonestly or in a way that truly brought the profession into disrepute. The penalty imposed on her is disproportionate to the alleged violations, particularly when less severe measures, such as a formal reprimand or warning, could have been considered. The decision to suspend the Petitioner from practice for a year seems not only excessive but also unjustified, given the nature of the purported violations and the lack of any clear evidence against her.

19. The Council, as a professional body, is entrusted with safeguarding the integrity of the profession, but this responsibility should not translate into punitive measures that are disproportionate to the conduct in question. A balanced and fair approach, recognizing both the Petitioner's conduct and the absence of any concrete evidence of malfeasance, should have been the



course adopted by the Council.

20. Moreover, it appears that the Council has overreached its jurisdiction by entangling itself in what is essentially a dispute between two Architects over a contractual arrangement, rather than a genuine matter of professional misconduct. The crux of the dispute is the loss of a contract by Respondent No. 2, which has little to do with any ethical or professional violations as contemplated by the Architects (Professional Conduct) Regulations. The Council's findings hinge on Respondent No. 2's grievance about losing the project to the Petitioner, rather than any substantive evidence of the Petitioner's misconduct. This suggests that the Council may have allowed itself to be drawn into a personal or commercial conflict between the two parties, rather than objectively assessing whether any genuine breach of professional standards occurred.

21. The Council's role is to safeguard the integrity and reputation of the architectural profession, not to arbitrate commercial disputes between parties. By imposing strict penalty on the Petitioner without clear evidence of professional misconduct, the Council has not only overstepped its authority but used its regulatory power to unfairly penalize the Petitioner. Thus, the Council's action suggest a lack of objectivity.

22. In light of the above, the present writ petition is allowed and the impugned decision taken *vide* impugned Minutes of Meeting dated 7th November, 2022 against the Petitioner is hereby quashed.

SANJEEV NARULA, J

SEPTEMBER 5, 2024/ab