



\$~58

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

+ **W.P.(CRL) 2479/2024**

ABHINAV RAI

.....Petitioner

Through: Mr. Vimal Kumar, Mr. Swadesh
Deepak, Advocates with petitioner-
in-person

versus

STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Rahul Tyagi, ASC for the
State/R-1,5 and 6
Mr.Praveen Khattar and Mr. Pritam
Kumar, Advocates for R-7, Delhi
Medical Council.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **14.08.2024**

CRL.M.A. 24104/2024

Exemption granted, subject to just exceptions.

The application stands disposed-of.

W.P.(CRL) 2479/2024

By way of the present writ petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks a direction to some of the respondents to form a Special Investigation Team to enquire into the affairs of respondent No.2, who is stated to be practicing as a doctor at respondent No.3 hospital.

2. The petitioner claims that respondent No.2 is not a qualified allopathic doctor and yet he is prescribing allopathic medicines at respondent No.3 hospital.



3. Mr. Rahul Tyagi, learned ASC (Criminal) appears on behalf of respondents No.1, 5 and 6 on advance copy; and submits that it would appear that the genesis of the present proceeding is an issue that has arisen between the petitioner (who is a practicing lawyer) and respondent No.2 (who is a practicing physician), which has led to the filing of the present petition.
4. Learned ASC submits that as per preliminary verification conducted, respondent No.2 holds a BAMS Degree (though not an MBBS Degree) and is accordingly entitled to practice medicine. He submits, that in any case, before approaching this court by way of the present petition, the petitioner ought to have availed the statutory remedy available to him under section 175(3) of the BNSS, by filing an application before the learned Metropolitan Magistrate seeking registration of an FIR, if that is the relief he was seeking.
5. Mr. Tyagi also submits, that if it is the petitioner's grievance that a doctor holding a BAMS Degree cannot prescribe allopathic medicine, it was also available to the petitioner to pursue his remedy before the concerned medical council or the regulating Ministry, which also the petitioner has not done.
6. In view of the relief prayed for in the petition and the legal position obtaining, *inter-alia* the law as enunciated by the Supreme Court in ***Sakiri Vasu vs. State of Uttar Pradesh & Ors.***¹, this court is not inclined to entertain the present petition.

¹ (2008) 2 SCC 409



7. The petition is accordingly disposed-of, granting to the petitioner liberty to adopt all such remedies as may be available to him before the appropriate administrative authorities/forum/court, in accordance with law.
8. Pending applications, if any, also stand disposed of.
9. It is clarified that this court has neither considered nor expressed any opinion on the merits of the matter.

ANUP JAIRAM BHAMBHANI, J

AUGUST 14, 2024/SV