



2024:DHC:6656-DB



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

+ **LPA 824/2024**

DR. NEENA RAIZADA

.....Appellant

Through: Mr.Trilok Nath Saxena with Dr.Shiv
Kumar Tiwari and Mr.Abhinav
Saxena and Mr.V.K.Singh,
Advocates.

versus

**MEDICAL COUNCIL OF INDIA THROUGH ITS SECRETARY
AND ORS**

.....Respondents

Through: Mr.T.Singhdev with Mr.Aabhaas
Sukheramani, Mr.Abhijit Chakravary,
Mr.Bhanu Gulati, Ms.Anum Hussain,
Mr.Tanishq Srivastava, Mr.Sourabh
Kumar and Ms.Raman Preet Kaur,
Advocates.

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Date of Decision: 27th August, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

C.M.Nos.48716/2024 & 48718/2024

1. Keeping in view the averments in the applications, the delay in filing and re-filing the present appeal is condoned.
2. Accordingly, the applications stand disposed of.

C.M.No.48717/2024

3. Exemption allowed, subject to all just exceptions.
4. Accordingly, the application stands disposed of.

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**LPA No.824/2024**

5. Present appeal has been filed challenging the impugned judgement dated 19th October, 2023 passed by the learned Single Judge in W.P.(C) 13499/2023, whereby the writ petition filed by the appellant challenging the order dated 13th August, 2019 passed by the respondent no.1/MCI and subsequently seeking removal of the doctors (i.e. Dr. Ravi Kumar and Dr. Arti Lalchandani) from the rolls of the respondent no.1/MCI in accordance with Regulation 7.7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 (“Professional Conduct Regulations”) was dismissed.

6. Vide order dated 04th June, 2018 passed by the Uttar Pradesh Medical Council, Lucknow, which was subsequently upheld in appeal by the respondent no.1/MCI vide order dated 13th August, 2019, warnings were issued to Dr. Ravi Kumar and Dr. Arti Lalchandani to not issue any opinion letters without examining the patients.

7. Learned counsel for the appellant states that the only punishment which can be imposed on a doctor who gives a certificate which is untrue, misleading or improper is the removal of the name of the doctor from the rolls of the register of Medical Council in accordance with Regulation 7.7 of the Professional Conduct Regulations.

8. He submits that the said provision does not postulate any punishment by way of warning, which is lesser than the minimum punishment prescribed thereunder. He, however, states that the punishment could have been for deletion from the register for a few days.

9. Having perused the paper book, this Court is of the view that the issue which arises in the present appeal is whether the alleged misconduct by the



aforesaid two doctors falls under Regulation 7.7 or 8.2 of the Professional Conduct Regulations. The said Regulations are reproduced hereinbelow:-

“7.7 Signing Professional Certificates, Reports and other Documents:

Registered medical practitioners are in certain cases bound by law to give, or may from time to time be called upon or requested to give certificates, notification, reports and other documents of similar character signed by them in their professional capacity for subsequent use in the courts or for administrative purposes etc. Such documents, among others, include the ones given at Appendix-4. Any registered practitioner who is shown to have signed or given under his name and authority any such certificate, notification, report or document of a similar character which is untrue, misleading or improper, is liable to have his name deleted from the Register.

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xxx

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8.2 It is made clear that any complaint with regard to professional misconduct can be brought before the appropriate Medical Council for Disciplinary action. Upon receipt of any complaint of professional misconduct, the appropriate Medical Council would hold an enquiry and give opportunity to the registered medical practitioner to be heard in person or by pleader. If the medical practitioner is found to be guilty of committing professional misconduct, the appropriate Medical Council may award such punishment as deemed necessary or may direct the removal altogether or for a specified period, from the register of the name of the delinquent registered practitioner. Deletion from the Register shall be widely publicized in local press as well as in the publications of different Medical Associations/Societies/Bodies.”

10. The Certificate dated 09th July, 2014 reads as under:-

“TO WHOM IT MAY CONCERN

This is with reference to letters/complaints and plea for help from Members of IMA Kanpur Dr. Jyotsana Mohan and Dr. Maneesh Mohan Vs Dr. Neena Mohan. On speaking to the above complainants and perusal of prescription dt. 10-04-2007 by Dr. S.S. Agnihotri H.O.D. Psychiatry, G.S.V.M. Medical College, Kanpur, it is evident that Dr. Neena Mohan is suffering from paranoid Schizophrenia, has delusions of persecution, does not have insight into her problems, as well as her judgment is severely affected. Such patients are very suspicious of everyone around them and fear that they will be killed. They start acting upon imaginary fears and become a danger to others and even themselves. These patients put weird,



elaborate and serious allegations often of a sexual nature on persons around them. Threats, abuses, violence, and destructive activities become a part of their routine life. They often need hospitalization and forced treatment because of lack of insight.

So before acting on the complaint of a patient of Paranoid Schizophrenia, a psychiatrist's opinion and utmost discretion is required.

The IMA Kanpur shall be glad to help the administration and the police in this regard.

*Sd/-
Dr. Arati Lalchandani
President*

*Sd/-
Dr. Ravi Kumar
Hony. Secretary
(emphasis supplied)*

11. Upon a reading of the Certificate dated 09th July, 2014, this Court is of the view that the said Certificate is neither untrue nor misleading or improper.

12. However, there has been a misconduct on the part of the two doctors in issuing the said certificates without examining the alleged patients. Consequently, the case falls under Section 8.2 of the Professional Conduct Regulations, which confers discretion on the Medical Council to impose any punishment it deems necessary.

13. Consequently, this Court is of the view that the punishment imposed by the Uttar Pradesh Medical Council, Lucknow calls for no interference. Accordingly, the present appeal is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

**AUGUST 27, 2024
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