

20.03.2025
Sl. No. 03
g.b.
Court No.10
265717

WPA 12045 of 2004
With
IA No: CAN 2 of 2005

Dr. Sajal Kumar Sarkar
-Vs-
The State of West Bengal & Ors.

Mr. Subir Sanyal
Mr. Manik Das
Mr. Falguni Majhi
.....For the Petitioner
Mr. Ashish Kumar Guha
Mr. Naren Ghosh Dastidar
.....For the State
Mr. Saibalendu Bhowmik
Mr. Biplab Guha
Mr. Subrata Bhattacharya
Mr. Rajsekhar Basu
.....For the WBMC

The grievance of the petitioner is directed against a proceeding initiated in respect of a complaint dated 11 March, 2002.

Briefly, the respondent authorities being the West Bengal Medical Council, on the basis of a complaint dated 11 March, 2002 filed by the private respondent no.5 initiated a proceeding against the writ petitioner.

The complaint arises out of an incident, which had occurred on 6 March, 1993 when the petitioner had attended the call of the private respondent no.5 who had suffered a fracture. Subsequently, during the course of treatment, the petitioner also attended the respondent no.5 on 8 March, 1993. No contemporaneous complaint was filed by the respondent no.5 against the petitioner. Thereafter, approximately a year later the respondent no.5 filed a complaint numbered S. C. Case No. 263/0/1994

against the petitioner before the West Bengal State Commission constituted under the Consumer Protection Act 1986 alleging medical negligence and deficiency of service. Subsequently, after an expiry of approximately 9 years, the private respondent no.5 on 11 March, 2002 lodged the subject complaint against the petitioner with the Registrar of the West Bengal Medical Council being the respondent no.4 herein.

Pursuant to the above complaint, a charge sheet dated 12 April, 2004 was filed by the West Bengal Medical Council. Admittedly, the proceedings before the Council has been kept pending and no effective steps have taken place for more than two decades. In this background the petitioner has filed this petition in 2004 *inter alia* seeking setting aside and quashing of the proceedings by the West Bengal Medical Council.

During the pendency of the writ petition on 19 January, 2010 a settlement has been arrived at by and between the private respondent no.5 and the petitioner before the National Consumer Disputes Redressal Commission whereby all allegations of negligence and deficiency of service against the petitioner have been unequivocally and unconditionally withdrawn. Consequently, the proceedings filed before the Commissioner have amicably concluded and the private respondent no.5 has withdrawn all allegations against the petitioner before the National Consumer Disputes Redressal Commission and filed an undertaking to this

effect. Notwithstanding withdrawal of the above proceeding, the West Bengal Medical Council has refused to close or bring an end to the proceeding and has mechanically and in a routine manner kept the same pending.

Admittedly, even after a lapse of more than 20 years the Council has taken no positive steps insofar as the subject complaint is concerned. There is no explanation as to the inordinate and undue delay caused in the impugned proceedings. It appears from the records that the respondent Council had not diligently proceeded with the disciplinary proceeding and simply procrastinated the same in a routine and mechanical manner. The records of the case demonstrate that insofar as the complaint of the private respondent no.5 is concerned, the same has been amicably resolved. Despite repeated opportunities the private respondent no.5 has chosen not to appear.

It is obvious that the respondent no.5 has no existing dispute nor grievance against the petitioner and the same has been brought to an end and all charges withdrawn. It is true that the question of delay has to be examined on the facts and circumstances of each case. However, the petitioner has the right to a speedy conclusion of the proceedings initiated by the Council. The proceedings have unnecessarily procrastinated. The mental agony and distress apart, during the pendency of

the proceedings, the petitioner has also superannuated on 28 February 2025.

It is obvious that the Council has not been diligent in proceeding with the subject complaint. In the background of the settlement, by and between the writ petitioner and the respondent no.5, any further progress of the case pending before the Council would serve no purpose and would in fact amount to a travesty of justice. The delay also demonstrates the lack of seriousness in pursuing charges against the petitioner. The Council has failed to timely proceed with the complaint. In view of the subsequent facts which have transpired, there is no purpose in keeping the subject proceeding pending any further. In such circumstances and in the absence of any justification it would be unreasonable to pursue the subject proceeding. The long and unjustified pendency of such proceedings also emasculates the object and purpose behind the Act.

In view of the above, the proceedings initiated on the basis of the complaint dated 11 March, 2002 stand quashed. In view of the above, WPA 12045 of 2004 stands allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Ravi Krishan Kapur, J.)