

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 15003 of 2025

Dr. Santanu Sen
Vs.
The State of West Bengal & Ors.

For the writ petitioner	:-	Mr. Biswaroop Bhattacharyya, Adv. Mr. Priyabrata Thakur, Adv. Mr. Srijib Chakraborty, Adv. Mr. Sumitabha Chakraborty, Adv. Ms. Sreetama Biswas, Adv. Mr. Snehasish Dey, Adv.
For the State	:-	Mr. Swapan Banerjee, Adv. Ms. Sumita Shaw, Adv. Mr. Soumen Chatterjee, Adv.
For the respondent no. 2	:-	Mr. Kishore Dutta, Sr. Adv. Mr. Samrat Sen, Sr. Adv. Mr. Sunil Gupta, Adv. Mr. Rishav Barman, Adv.
Heard on	:-	07.07.2025
Judgment on	:-	07.07.2025

Amrita Sinha, J.:-

1. Affidavit of service filed in Court today is taken on record.
2. Supplementary affidavit filed on behalf of the petitioner is also taken on record. Copy of the same has been handed over to the learned advocates appearing on behalf of the respondents.

3. The petitioner has averred in the writ petition that he is a medical practitioner and he holds the degree of M.B.B.S and D.M.R.D. (Gold Medallist) and has been honoured with FRCP (Glasgow) and FIAMS. He claims that he is the Secretary of the Indian Medical Association and the member of the MAC National Medical Commission.

4. He is aggrieved by the order dated 4th July, 2025 passed by the West Bengal Medical Council whereby he have been found guilty of infamous conduct in his profession and decision has been taken by the Council to remove him from the register of Registered Medical Practitioners maintained by the West Bengal Medial Council for a period of two years from the date of communication of the order.

5. Learned advocate appearing on behalf of the petitioner submits, upon instruction that, the impugned order of penalty is yet to be communicated to the petitioner. The petitioner got to learn about the order from the official website of the Medical Council. The said order is annexed to the supplementary affidavit.

6. The very first point of attack is that the impugned order is a non-speaking one. No grounds and/or reasons have been mentioned by the Council for removing his name from the register of Medical Practitioners.

7. It has been submitted that a notice to show cause was given to the petitioner on 9th June, 2025 which the petitioner replied on 23rd June, 2025 by filing a detailed response. In the impugned order, none of the causes shown by the petitioner has been taken into consideration.

8. The nomenclature in the letter head of the petitioner which gives rise to the subject proceeding is 'FRCP (Glasg)'. The certificate relying on which the aforesaid nomenclature is inserted in the letter head of the petitioner is annexed at page 30 of the writ petition. The subject certificate is described and styled as 'Diploma of Fellowship FRCP (Glasg)'.

9. The certificate appears to be issued by the Royal College of Physicians and Surgeons of Glasgow certifying that the petitioner having acquired distinction as a Physician on the Twenty-Second Day of February, Two Thousand and Nineteen is duly admitted a Physician Fellow of the Royal College of Physicians and Surgeons of Glasgow.

10. According to the petitioner, the said diploma is merely an honour and not a regular educational qualification obtained by him.

11. It has been submitted that the petitioner is practicing on the strength of his qualification which he acquired after his regular studies.

12. The impugned show cause notice, though mentions that information and evidence have been laid before the Council on the basis of a complaint and further enquiry on which charges have been framed against the petitioner, but neither any information, nor evidence nor complaint or report of enquiry was ever furnished to the petitioner.

13. It has been submitted that without supplying the complaint or the information or the evidence or any further document relied upon by the authority, the impugned order ought not to have been passed. The petitioner is not in a position to defend himself properly in the absence of the aforesaid. The same amounts to violation of the principles of natural justice.

14. Prayer has been made to set aside the impugned order of penalty.

15. Learned Advocate General represents the West Bengal Medical Council.

16. It has been submitted that the charge-sheet issued to the petitioner is a detailed one and the petitioner is aware of all the charges levelled against him.

17. It has been stressed that it is the admitted case of the petitioner that the diploma is a qualification for which the petitioner applied for registration. The communications made by the petitioner in response to the

show cause notice also mentions the said diploma as a qualification. Had there been no requirement of registration of the diploma, then registration ought not to have been applied for.

18. It has been contended that the general public may be misled by the description of the doctor as reflected in his letter head. It may not be unusual for the patient party to conclude that because of the mention of FRCP (Glasg) in the letter head of the doctor, better treatment may be available from him.

19. It has also been argued that communication made to the petitioner on 15th May, 2025 clearly records that the proceeding in question is a *suo motu* one. The petitioner will not be prejudiced if separate reasons are not disclosed in the impugned order of penalty. Prayer has been made to dismiss the writ petition and relegate the petitioner to the appellate forum.

20. I have heard and considered the submissions made on behalf of both the parties. The submission of the Learned Advocate General that the petitioner will not be prejudiced for not disclosing reasons in the impugned order of penalty cannot be accepted by the Court.

21. A delinquent is certainly entitled to know the reason(s) for which he is being penalized or else the impugned order does not meet the test of compliance of the principles of natural justice.

22. The contention of the authority that the proceeding has been initiated *suo motu* appears to be contrary to the charge-sheet which has been issued on 9th June, 2025 which clearly mentions about information, evidence, complaint and enquiry. If the proceeding is a *suo motu* one, then the question of any information, evidence, complaint or enquiry would not have been mentioned in the charge-sheet.

23. Had it been a *suo motu* proceeding, then the basis of the *suo motu* proceeding should also have been disclosed to the petitioner for him to defend his stand meaningfully.

24. The mention of the expression 'FRCP (Glasg)' is appearing in the letter head of the petitioner for the last six years i.e. from the date of its issue in the year 2019 till the show cause notice is issued in the year 2025.

25. If the authority intends to prosecute the petitioner, then proper reason(s) ought to be mentioned in the impugned order so that the petitioner may challenge the same before the appellate authority. The impugned order, though discloses the description of the appellate authority, but does not disclose the ground(s) on which the order of penalty has been passed.

26. Without entering into any further details, the Court is of the opinion that the impugned order is bereft of the ground(s) on which it has been passed. The same is an absolute non-speaking and cryptic order, passed in violation of the principles of natural justice and is liable to be set aside.

27. The impugned order is, accordingly, set aside. It will be open for the authority to revisit and conclude the proceeding against the petitioner from the stage of furnishing the information, evidence, complaint or enquiry report, if any, relying on which the proceeding was disposed of resulting in imposition of penalty. It will be open for the petitioner to deal with all issues at the time of defending the charges levelled against him.

28. The Medical Council is directed to forward to the petitioner any information, evidence, complaint or enquiry report, if any, based on which the show cause notice and the impugned order dated 4th July, 2025 has been passed and give an opportunity to the petitioner to respond to the same. An opportunity of hearing shall be provided to the petitioner. Reasoned order shall be passed by the authority at the earliest.

29. If the authority is of the opinion that there is a requirement of initiating the entire proceeding afresh *de novo*, the authority may do so. The authority shall take all steps strictly in accordance with the Act and by confirming to the principles of natural justice.

30. The petitioner is, however, restrained from using the expression 'FRCP (Glasg)' in his letter head till the issue is conclusively decided by the Council. The petitioner may, in his letter head, use the expression i.e. Diploma of Fellowship FRCP (Glasg) as mentioned in the subject certificate.

31. The writ petition stands disposed of.

32. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)