



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6786 OF 2025

GANGA KAILASH DARGAD

VERSUS

**MAHARASHTRA MEDICAL COUNCIL MMC THROUGH
ITS REGISTRAR AND ANOTHER**

...

Shri Vernekar Ashish S. a/w Ms. Sakshi Mane and Ms. Siksha Bhatt, Advocates for the Petitioner.

Shri Gajanan Kadam, Advocate for Respondent No.1/ MMC.

Shri Chetan B. Chaudhari, Advocate for Respondent No.2.

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CORAM : RAVINDRA V. GHUGE

&

Y. G. KHOBRAGADE, JJ.

DATE :- 25th June, 2025

Per Court :-

1. Issue notice to the Respondents. The learned Advocates waive service of notice on behalf of the respective Respondents.

2. Considering the urgency expressed when the matter was heard on 16.06.2025, the Court was assured that the response to this Petition would be filed on or before 21.06.2025 and the replies would be delivered to the learned Advocate for the Petitioner on his email address, mentioned in paragraph No.3

of the order dated 16.06.2025. Respondent No.2/ Complainant has entered the reply.

3. Respondent No.2/ Complainant lodged a complaint dated 07.11.2022 against the Petitioner, who is a practicing Doctor and operates a 33 bedded hospital, alleging medical negligence in the treatment of his wife. She was pregnant and under treatment of one Dr. Shinde, till 09.04.2021. She was diagnosed with 'Marginal Placenta Previa', as per the findings of USG report. As there was no latest medical equipment for treating the patient at Dr. Shinde's hospital, the patient was shifted and admitted to the Petitioner's hospital on 12.04.2021.

4. The patient was under tremendous pain and on 13.04.2021, she delivered a baby boy at 04:27 AM. After delivery, the patient started bleeding heavily with convulsions. The allegation is that despite call for doctors, the medical staff did not take adequate care. The patient passed away at 05:45 AM. The grievance of the Complainant is that the treatment of the patient post 'Partum Hemorrhage' was not handled as is expected and due to negligence of the Petitioner, the patient passed away on 13.04.2021.

5. On the Complaint No.MMC/DC/40/2022 lodged before the Maharashtra Medical Council, the impugned interim order was passed by the Registrar, Maharashtra Medical Council, on 13.05.2025, which reads as under:-

“11. Therefore, committee passed following order:

"Dr. Ganga Dargad (Respondent) Registration No. 86505 with the Maharashtra Medical Council is hereby suspended (under section 10 (d) of MMC Act, 1965) till pending enquiry and you have been refrained from doing medical practice and/or professional practice of any nature of practice during the period of suspension. If you are found doing any kind of medical practice during the suspension period, suitable action will be taken against you as per law."

12. "A Medical practitioner or professional who is aggrieved by any action taken by a State Medical Council may prefer an appeal to the Ethics and Medical Registration Board against such action as per Section 30 (3) of the National Medical Commission Act, 2019 to NMC."

6. The learned Advocate representing Respondent No.1/ Medical Council submits that the Petitioner has already preferred an appeal before the Ethics and Medical Registration Board of the National Medical Commission of India on

24.05.2025. However, it is conceded that the Board does not have the power to pass an interim order. The enquiry is still going on and nobody can speculate as to when the final report would be delivered. Even notice has not been issued by the Board.

7. The Petitioner has placed reliance on the judgment delivered by this Court at Nagpur in Writ Petition No.320/2014 (***Dr. Sadanand Madhukar Ingle vs. Maharashtra Medical Council and others***) wherein, this Court concluded in paragraphs 6, 10 and 11 as under:-

“6. *The suspension of registration of a medical practitioner pending enquiry or prosecution is a drastic action and takes away the fundamental right to practise the profession, as guaranteed under Article 19(1)(g) of the Constitution of India. Such an action can be taken only to enforce reasonable restrictions imposed by making a law in the general public interest in terms of Clause (6) of Article 19(1)(g) of the Constitution of India. The exercise of power under Section 10 or 22 of the said Act is guided by the circumstances pointed out by the judgment of the Division Bench in the case of Ramineni, cited supra. The action can be taken in cases of grave urgency and in appropriate cases, even without affording an opportunity of being heard in the matter and the validity of action can be judged in a postdecisional hearing. The cases of grave urgency would be those where the continuation of a medical practitioner on the register for any length of time is considered to be dangerous or detrimental to public interest, health*

and welfare, and the danger or detriment found to be imminent, is required to be averted by taking such action of suspending the registration, as the said Council deems fit and proper.”

- “10. *Merely quoting the words of 'public interest' is not enough, but the formation of opinion has to be based upon the objective assessment of the material relevant to the action taken. It is not the charge against the petitioner that the sex determination test was undertaken by the petitioner with an intent to terminate the life of a female foetus developing in the mother's womb or has actually terminated the pregnancy. It is not the opinion formed as per the resolution reproduced above, that to permit the petitioner to practice a medical profession as Gynaecologist is in any manner considered to be dangerous or detrimental to public health, safety and welfare and it is to avert such danger or detriment that an action impugned has been taken. The fundamental rights cannot be taken away merely because it is prudent to do so. It is also not the case that the continuation of medical practice by the petitioner is likely to hamper the investigation in progress. In view of this, the action impugned cannot be sustained.*
11. *In the result, the petition is allowed. The order dated 26122013 passed by the respondents, is hereby quashed and set aside. The respondents are at liberty to continue and complete the enquiry as early as possible.”*

8. We have perused the impugned order, operative part of which has been reproduced in paragraph No.4 above. In paragraph No.9 of the impugned order, the Maharashtra Medical Council has recorded that the Petitioner was absent on the date of the hearing due to her medical condition and she submitted the

medical certificate along with the medical report vide an email, which was taken on record.

9. We do not see any such circumstances by which the Maharashtra Medical Council was required to pass an order of suspending the registration of the Petitioner. No such circumstances are recorded in the order to indicate that the Council was compelled by circumstances to pass an order of suspending her registration, even when she was absent for one hearing before it. It is stated that in 25 years of practice of the Petitioner as a Gynecologist, who operates a 33 bedded hospital, there has not been a single complaint against her of medical negligence by any patient or relative of the patient. In our view, there were no such circumstances by which, the impugned order had to be passed, notwithstanding that the Petitioner was not present for the hearing. It is a matter of circumspection and speculation as to when would the enquiry be completed and the final verdict would be delivered.

10. In view of the above and on the ground that the Petitioner was absent in the hearing and on the same day the impugned order has been passed, by way of ad-interim

protection, the impugned order deserves to be stayed.

11. At this juncture, the learned Advocate for Respondent No.2/ Complainant submits, on instructions from the Complainant, who is present in the Court hall, that as the impugned order has been passed without hearing the Petitioner on the day when she was absent, the impugned order may be set aside and the Maharashtra Medical Council may be directed to re-issue notice to the Complainant as well as the Petitioner or direct the parties to remain present before the Council on a particular date and time, for a hearing.

12. The learned Advocate representing Respondent No.1 Council submits that if this is the request, the Court may decide the date and time on which the parties may remain present before the Maharashtra Medical Council for the hearing.

13. In view of the above, the impugned order is set aside, by consent. The Petitioner as well as Respondent No.2, would appear before the Maharashtra Medical Council in Complaint No.MMC/DC/40/2022, on 21.07.2025 at 11:00 AM. Hence, no notice by the Council to the parties, is dispensed with. Both the parties are at liberty to file their written submissions as

well as address the Council orally, on the said date of hearing.

14. Consequentially, the Appeal before the Ethics and Medical Registration Board of the National Medical Commission of India, would not survive and stands disposed off. Respondent No.1 herein would transmit a copy of this order to the said Commission, for passing a formal order of disposal of the Appeal.

15. **The Writ Petition is, accordingly, disposed off.**

kps (Y. G. KHOBRADE, J.) (RAVINDRA V. GHUGE, J.)