

Uttam Singh v. Partap Singh, (deceased) represented by his Legal heirs (G. R. Majithia, J.

(6) For the reasons aforesaid, the appeal succeeds, the judgment and decree of the first appellate Court are reversed and those of the trial Court are restored, but with no order as to costs.

S.C.K.

Before S. S. Sodhi and Amarjeet Chaudhary, JJ.

H. K. CHOPRA,—Petitioner.

versus

THE POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH, CHANDIGARH AND OTHERS,—Respondents.

Civil Writ Petition No. 14764 of 1990.

21st January, 1991.

Constitution of India, 1950—Art. 226—Punjab Medical Registration Act, 1916—S. 13—Public interest litigation—Person questioning eligibility of a reputed Doctor to be registered as Medical Practitioner on the ground that he was registered under the British Medical Act—Registration in London accepted by the Punjab Medical College—Petition used as a device to block candidature of the Doctor for promotion—Vexatious proceedings—Malicious intent—Petition liable to be dismissed with punitive costs of Rs. 5,000.

Held, that according to S. 13 of the Punjab Medical Registration Act, 1916, every person who is registered or qualified to be registered under the British Medical Act is also entitled to be registered under the Punjab Act. The certificate from the General Medical Council, London, registers Dr. Dilawari with the British Medical Council. This has also been so accepted by the Punjab Medical College in their communication to the Medical Council of India. Such being the situation, no exception can indeed be taken to the registration of Dr. J. B. Dilawari as a Medical Practitioner under the Punjab Medical Registration Act, 1916.

(Para 4 & 5)

Held, that the conduct of the petitioner and other material on record lend credence to the fact that in the garb of public interest litigation, the petition was designed to help the interest of Dr. Dilawari's rivals for the post of Professor, by seeking to block his candidature by this device. Hence the present proceedings cannot, but be branded as vexatious and accordingly the petitioner is liable to be dismissed with punitive costs of Rs. 5,000.

(Paras 6 & 7)

Petition under Article 226 of the Constitution of India praying that a writ of Mandamus, Certiorari, Prohibition or any other appropriate Writ, direction or Order be issued directing the respondents.

- (i) *to produce the complete records of the case;*
- (ii) *a Writ of Mandamus or any other appropriate Writ, Direction or Order be issued declaring respondent No. 6 as ineligible for being registered under the Indian Medical Council Act;*
- (iii) *a Writ of Mandamus be issued declaring the constitution of respondent No. 6 against various posts in the PGI as illegal and contrary to the statutory provisions detailed hereinabove;*
- (iv) *a Writ of Certiorari be issued quashing the Registration Certificate granted to respondent No. 6,—vide Annexure P/11;*
- (v) *a Writ of Mandamus be issued declaring the holding of the post of Registrar by respondent No. 5 as illegal and unconstitutional and contrary to the provisions of the Punjab Medical Registration Act;*
- (vi) *a Writ of Prohibition be issued restraining the respondents from allowing respondent No. 6 to continue to discharge any duties against any post in the P.G.I.*
- (vii) *to declare the action of respondents 4 and 5 in allowing Dr. J. B. Dilawari to continue to discharge duties in spite of specific notice to his non-registration and about the determination by the Medical Council of India as illegal;*
- (viii) *the registration with retrospective effect allowed to respondent No. 6 be quashed as illegal and incompetent under the provisions of the Punjab Medical Registration Act;*
- (ix) *this Hon'ble Court may also pass any other order which it may deem just and fit in the peculiar circumstances of the case and grant all such other benefits to which the petitioner may be found entitled to;*
- (x) *the petitioner be exempted from filing the originals of Annexures P/1 to P/18;*
- (xi) *the petitioner be exempted from filing the copies of the writ petition for service on the respondents at this juncture;*

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(xii) *the petitioner be exempted from serving five days' notice as required under the High Court Rules and Orders, Volume V;*

(xiii) *costs of the petition be also awarded to the petitioner.*

R. S. Cheema, Advocate, for the Petitioner.

V. K. Bali, Sr. Advocate, with Anil Khetarpal, Advocate, for the Respondent No. 6.

S. S. Nijjar, Sr. Advocate, (Rajan Gupta, Advocate), for Respondents No. 3 to 5.

JUDGMENT

(1) Malicious intent is what this petition smacks of. The petitioner, who claims himself to be a social worker and journalist seeks to question the eligibility of respondent No. 6 Dr. J. B. Dilawari, to be registered as a Medical Practitioner and consequently his competence to hold the post of Associate Professor at the Post Graduate Institute of Medical Education and Research, Chandigarh. On the same cause of action, having earlier filed a criminal complaint against Dr. Dilawari, which was dismissed on February 10, 1989, against which a criminal revision filed by the petitioner in June 1989 is still pending in this Court, he has now resorted to these proceedings under Article 226 of the Constitution of India.

(2) At the very out-set, it would, however, be pertinent to list out the qualifications of Dr. J. B. Dilawari. These being:—

1. Arztiche Prufung (MBBS) Munish University, Germany 1962
2. M.D. Munish University 1966
(This Degree is recognized by the Medical Council of India and is included in para 2 of the Second Schedule of the Indian Medical Council Act, 1956).
3. M.R.C.P. (London) 1970
4. L.R.C.P., M.R.C.S. (London) 971
[Both M.R.C.P. (London) and L.R.C.P., M.R.C.S. (London) are also medical qualifications recognized by the Medical Council of India and are also mentioned in the Indian Medical Council Act, 1956].

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5. F.R.C.P. (London) from Royal College of Physicians.
 6. R.A.M.S. from National Academy of Medical Sciences (India).

(3) It will be seen that these qualifications amply and in fact far exceed the requisite, to render Dr. Dilawari eligible for registration under the relevant statutory provisions.

(4) What is more, according to section 13 of the Punjab Medical Registration Act, 1916, every person who is registered or qualified to be registered under the British Medical Act is also entitled to be registered under this Act. As would be apparent from annexure R-6/7, the certificate from the General Medical Council, London, Dr. Dilawari stands registered with the British Medical Council since May 21, 1971. This has also been so accepted by the Punjab Medical College in their communication, annexure R-6/7 to the Medical Council of India.

(5) Such being the situation, no exception can indeed be taken to the registration of Dr. J. B. Dilawari as a Medical Practitioner under the Punjab Medical Registration Act, 1916.

(6) Turning to the role and conduct of the petitioner in this matter, the circumstances and the background, as adverted to in the return filed by respondent-6 and the other material on record, do indeed lend credence to the contention of Mr. V. K. Bali, counsel for respondent 6 that in the context of the likely early filling up of the post of professor on the appointment to it, of Dr. Saroj Mehta having been set aside by the Court, in the garb of public interest litigation, this entire exercise was designed to help the interests of Dr. Dilawari's rivals for this post, by seeking to block his candidature by this device. Seen in this light, the present proceedings cannot, but be branded as vexatious.

(7) We accordingly hereby dismiss this writ petition and impose Rs. 5,000 (Rs. Five thousand only) as punitive costs upon the petitioner.

R.N.R.