

Serial No. 66
Supplementary-1 Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 1968/2023
CM No. 4598/2023

Dr. Mehmood Ahmad

... Petitioner(s)

Through: -

Mr R. A. Jan, Senior Advocate with
Mr Suhail Mehraj, Advocate.

V/s

Union of India & Ors.

... Respondent(s)

Through: -

Mr Tahir Majid Shamsi, DSGI with
Ms Shagufta Maqbool, Advocate for R-1 to 6.

CORAM:

HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(ORDER)
04.08.2023

01. The Petitioner, through the medium of the instant Petition filed under Article 226 of the Constitution of India, seeks quashing of impugned show cause notice bearing No. NBEMS/DoEC/51022/Jun-17/CD1902521/2023/23951 dated 24th of May, 2023, along with the consequential proceedings/ action initiated and being undertaken by the Respondents in pursuance thereto, including the penalty inflicted against the Petitioner vide impugned Order No. NBEMS/DoEC/51022/Jun-2017/CD1902521/2023/27506 dated 14th of July, 2023 as well as the impugned communication No. MRC/J/2023/7621-28 dated 24th of July, 2023, withholding the permanent registration granted in favour of the Petitioner vide No. 14573.

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Srinagar
9/8/23

02. Mr R. A. Jan, the learned Senior Counsel, appearing for the Petitioner, submitted that the proceedings initiated by the Respondents against the Petitioner are being undertaken in a most mechanical and perfunctory manner, on unfounded assumptions depicting total non-application of the mind on the part of the Respondents. The learned Senior Counsel argued that the case of the Petitioner, being class apart, therefore, the very premise on which the impugned communication of Respondent No.2 dated 12th of September, 2022 proceeds insofar as the Petitioner is concerned, is not only factually unfounded, but also in flagrant violation of the mandate of the Judgment rendered by the Hon'ble Supreme Court in Indian Doctors from Russia Welfare Association' case reported in 'SCC 2002 (3) 696'. It is pleaded that the impugned proceedings initiated/ being undertaken against the Petitioner by the Respondents, in particular Respondents 3 to 7 in pursuance thereto, are manifestly on illusory and non-existent grounds, as the case of the Petitioner does not, at all, fall in the category of Foreign Medical Graduates (FMG) claimed to have been identified by the Respondent No.2 vide classified list dated 12th of September, 2022 in view of the fact that the Petitioner has been granted the Provisional Registration in the year 2000, precisely on 17th of May, 2000, and, therefore, he clearly falls in the realm of the category of Foreign Medical Graduates (FMG) covered under the guidelines of Government of India, as approved by the Hon'ble Supreme Court in exercise of powers vested under Article 142 of the Constitution vide the Judgment supra. —

03. In this backdrop, Mr Jan has argued that the impugned proceedings initiated against the Petitioner by Respondent No.3, vide impugned Show Cause Notice bearing No. NBEMS/DoEC/51022/Jun-17/CD1902521/2023/23951 dated 24th of May, 2023 issued in pursuance to letter of Respondent No.2 bearing No. NBEMS/OSD/PNBE/2022/243 dated 12th of September, 2022, as well as all the consequential proceedings/ actions initiated and being undertaken in pursuance thereto against the Petitioner, including the impugned penalty inflicted vide impugned Order No. NBEMS/DoEC/51022/Jun-2017/CD1902521/2023/27506 dated 14th of

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July, 2023 and also the impugned order of Respondent No.7 dated 24th of July, 2023, withholding the permanent registration issued in favour of the Petitioner, are *void ab initio* and *non-est* in the eyes of law, thus, liable to be quashed by this Court.

04. Heard and considered.

05. Notice to the Respondents, in the main Petition as well as in the connected CM.

06. Mr Tahir Majid Shamsi, learned Deputy Solicitor General of India (DGSI), along with Ms Shagufta Magbool, learned Advocate, enters appearance and accepts notice on behalf of Respondents 1 to 6. They shall file Reply/ Objections by the next date of hearing positively, with a copy in advance to the other side.

07. Notice shall, now, go to Respondent No.7 only, returnable within four weeks. Requisites for service within one week.

08. List on 18th of September, 2023.

09. Meanwhile, subject to Objections from the other side and until further orders from this Court, the operation of the impugned show cause notice dated 24th of May, 2023 as well as impugned Order of penalty dated 14th of July, 2023 and impugned communication dated 24th of July, 2023, shall stay.

SRINAGAR
04.08.2023

No. HC/R/SGR/

22240

Dated

Sd/-
HON'BLE JUDGE

09/08/23

COPY OF ORDER FORWARDED TO RESPONDENT NO.

7

FOR COMPLIANCE

NOTICE DATE: / / (N)

NEXT DATE: 18/09/23 (C)

TYPED BY: PHOTOSTAT

COMPARED BY:

Shahy

Assistant Registrar
High Court of J&K, Ladakh
ASSISTANT REGISTRAR

8
9/8/23

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BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

1963

IN THE CASE OF: W.P. (C) No. Of 2023 titled below:

IN THE MATTER OF: MEMO OF PARTIES

Dr. Mehmood Ahmad, aged about 51 years,
S/o Mr. Siraj-ud-Din,
R/o L11 Gulbarg Cooperative Colony,
Peerbagh Airport Road,
Srinagar J&K – 190014
Through constituted Attorney Namely
Mr. Siraj-ud-Din Makhdoomi Aged about 81 years,
S/O Late Mohammad Abdullah R/o 1-11 Cooperative
Colony, Peer Bagh, new Airport Road, Srinagar.

... Petitioner

Versus

1. Union of India through Secretary to Government,
Ministry of Health and Family Welfare, Nirman Bhawan
New Delhi - 110011.
2. Director National Board of Examinations in Medical
Sciences, Medical Enclave Ansari Nagar, Mahatma
Gandhi Marg (Ring Road) New Delhi – 110029.
3. Additional Director (Medical)
Department of Examinations Conduct
National Board of Examinations in Medical Sciences,
Ansari Nagar, Mahatma Gandhi Marg (Ring Road)
New Delhi – 110029
4. Under-Secretary to Government,
Ministry of Health and Family Welfare,
Nirman Bhawan New Delhi – 110011.
5. Director,
Central Bureau of Investigation (CBI),
Plot No.5-B 6th Floor CGO Complex, Lodhi Road, New
Delhi 110003.
6. Medical Council of India
(National Medical Commission)
Pocket- 14, Sector – 8, Dwarka Phase -1
New Delhi – 110077, INDIA.
7. Jammu and Kashmir Medical Registration Council,
Sector-1 Gulberg Colony, Near HP Petrol Pump,
Opposite Jamkash Vehicleades, Behind KC Hundai
Main Office, Near IVF Centre, Fertigyn IVF Clinic,
Hyderpora Srinagar, J&K, 190014

... Respondents

Assistant Registrar
High Court of J&K Ladakh
Srinagar

9/18/23



THE JAMMU & KASHMIR MEDICAL COUNCIL

Jammu Office: 28 B/C Gandhi Nagar, Jammu-180004 Tele: 0191-2459221
Srinagar Office: Sector-1 Gulberg Colony, Near HP Petrol Pump, Opposite Jamkash Vehicleades, Hyderpora
Tele: 0194-3502301

Email: adminj@jkmedicalcouncil.in, admink@jkmedicalcouncil.in, jkmedicalcouncil@gmail.com
Website: www.jkmedicalcouncil.in


Dr. Mahmood Ahmad
S/O Sh. Siraj Ud Din
R/O L-11, Gulberg Cooperative Housing Colony,
New Airport Road, Peerbagh, Srinagar, J&K

No: MRC/J/2023/7621-28

Dated: 24-07-2023

Subject: Withheld of Registration Certificate.

As decided in the meeting of the council held on 20th July 2023, keeping in view the enquiry in the case "Investigation in CBI Case bearing No. RC 216 2022 A0013 dated 21.12.2022 registered against unknown public servants of erstwhile MCI (now NMC)/State Medical Councils, 73 FMGs and unknown others-reg" the permanent registration issued to Dr. Mahmood Ahmad S/O Sh. Siraj Ud Din R/O L-11, Gulberg Cooperative Housing Colony, New Airport Road, Peerbagh, Srinagar, J&K vide No.14573 dated 19/9/2016 is kept withheld till clarification of the case and its outcome. =


I/C Registrar
J&K MEDICAL COUNCIL

Copy to:

1. Secretary, National Medical Commission, New Delhi for information.
2. Administrative Secretary, Health & Medical Education Department, Govt. of Jammu & Kashmir, Civil Secretariat J&K.
3. Registrar all State/UT Medical Councils for information.
4. Principal/Director/Dean all the Medical Colleges of Jammu & Kashmir for information.
5. Director Health Services Jammu/Kashmir for information & necessary action.
6. Director information with the request to publish the same in two reputed dailies of both Jammu and Srinagar.
7. M/S Say Technologies for upload on website.