



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10th MAY, 2024

IN THE MATTER OF:

+ **W.P.(C) 6489/2021 & CM APPL. 20383/2021**

DR ARUN KUMAR SONI

..... Petitioner

Through: Mr. H.K. Chaturvedi, Ms. Anjali Chaturvedi, Ms. Megha Chaturvedi, Mr. Ramaditya Jadon and Mr. Sagar Chaturvedi, Advocates.

versus

MEDICAL COUNCIL OF INDIA & ANR

..... Respondents

Through: Mr. T Singhdev, Ms. Anum Hussain, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Aabhaas Sukhramani, Mr. Tanishq Srivastava, Advocates for R-1.
Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Mr. Varun Rajawat, Mr. Kartik Bajjal, Mr. Varun P. Singh and Ms. Shreya V. Mehra, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court seeking issuance of a writ of *mandamus* to the Medical Council of India to grant conditional permanent registration to practice as a doctor, subject to the outcome of the criminal case arising out of FIR No.84/2008 dated 30.03.2008 registered at Police Station Vasant Vihar for offences under Section 419, 420, 468, 471, 120B IPC.



2. Shorn of unnecessary details, the facts leading to this writ petition are that the Petitioner went to the Tver State Medical Academy, Russia, for getting higher education in the field of medicine.
3. It is stated in the list of dates that the duration of medical education in Russia is seven years out of which one year is spent in learning the Russian language and for six years a candidate studies medicine. It is stated that the Petitioner completed his education from the said institute in Russia on 24.06.2005. The diploma for qualification in 'General Medicine- Doctor of Medicine' was granted to him by Tver State Medical Academy, Russia. It is stated by the Petitioner that the said degree is considered equivalent to an MBBS degree in India. Under the Screening Test Regulations, 2002, a person who has acquired a degree from a foreign country has to clear a Foreign Medical Graduate Examination conducted by the National Board of Examinations to be eligible for registration as a medical practitioner in India. The Petitioner took the said examination.
4. The Delhi Police, Vasant Vihar registered a case bearing FIR No.84/2008 for offences under Section 419, 420, 468, 471, 120B IPC. The Petitioner was not arraigned as an accused in the said FIR. The FIR was registered because the Delhi Police had received information that certain impersonators are appearing on behalf of the candidates for the Foreign Medical Graduate Examination (FMGE), which was being conducted at Kendriya Vidyalaya, JNU campus, New Delhi. When the impersonators were questioned, they revealed that they were appearing on behalf of the said candidates, the identity proofs of the impersonators did not tally with the physical features of the candidates who had appeared in the said examinations. On the basis of the complaints given by the officials of the



National Board of Examination/Respondent No.2, the FIR was registered. Investigation conducted at the Office of National Board of Examination revealed that the Petitioner is one of those persons on whose behalf an impersonator was taking the examination and the Petitioner was arraigned as an accused. A chargesheet has been filed on 30.06.2011 and the case is numbered as CR 2035385/2016.

5. The Petitioner is on bail and this Court has been informed that charges have not been framed. The Petitioner has approached this Court stating that on the basis of results which have been declared for FMGE 2008, the Petitioner be provisionally permitted to practice medicine in India, subject to the outcome of the criminal proceedings emanating out of FIR No.84/2008 dated 30.03.2008 registered at Police Station Vasant Vihar for offences under Section 419, 420, 468, 471, 120B IPC..

6. Counter affidavits have been filed by the National Medical Commission and the National Board of Examination.

7. Learned Counsel for the Petitioner primarily places reliance on a judgment dated 16.01.2012 passed by a Coordinate Bench of this Court in Rangnathan Prasad Mandadapu v. Medical Council of India & Anr., W.P.(C) 8745/2011. The facts in that case was that the Petitioner therein had passed all the examinations of Medicine, Surgery, Pediatrics, Social Medicine, Obstetrics and Gynecology in Moscow University in the year 2000 and obtained the degree. Doubts were raised on the degree that was obtained by the Petitioner therein on the ground that there were allegations about the involvement of the Petitioner therein in forgery and submission of false documents. The Petitioner therein approached this Court contending that he is a victim of misrepresentation and that since he had cleared the



screening test, he should be permitted to be registered in the country.

8. In the facts of that case, the Petitioner had been professionally registered by the MCI, pending verification of the documents. The MCI had got information that the medical certificates are fake, on that basis, provisional registration had been cancelled. However, subsequently it was found that the information was wrong and it was found that the documents were genuine and the Petitioner therein was permitted to practice as a doctor in the country. The facts in that case and this case are entirely different.

9. During the course of the arguments, it was submitted by learned Counsel for the Respondents that the Petitioner can take the examination once again and if he clears, he can be provisionally permitted to practice, of course, subject to the final outcome of the criminal case.

10. The Petitioner herein is accused of a very serious offence of impersonation. It is the allegation that somebody else appeared on behalf of the Petitioner to take examination of Foreign Medical Graduate Exam (FMGE) and the Petitioner is arraigned as an accused and trial is pending. The Petitioner, therefore, cannot be permitted to be registered as a doctor to treat patients in the country on the basis of the fact that it is yet not certain as to whether the Petitioner did take the examination conducted by the NBE which is a condition precedent of a person who has obtained a foreign degree to be registered in the country as a medical practitioner. Till the criminal proceedings are not decided and the Petitioner is not acquitted, the Petitioner cannot be registered as a medical practitioner in the country.

11. There is no question of granting provisional registration to the Petitioner as a medical practitioner pending a criminal case. The plea of the Petitioner, therefore, cannot be granted. However, as stated in the Counter



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Affidavit filed by the NBE, it is always open for the Petitioner to take the examination once again.

12. The writ petition is dismissed along with pending application(s), if any.

MAY 10, 2024

hsk

SUBRAMONIUM PRASAD, J