

2/7/2012 @ 12:00 PM

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO. 1899 OF 2012

IN THE MATTER OF:

Para Medical Council (Punjab), Mohali ...Petitioner

Versus

State of Punjab & Ors. ...Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT

NO.7 -MEDICAL COUNCIL OF INDIA

I, Shikhar Ranjan, Law Officer, Medical council of India, Pocket-14, Sector-8, Dwarka, New Delhi-110077, do hereby solemnly affirm and state as under:

- 1) That at present, I am working as Law Officer in the office of Medical Council of India (hereinafter referred as MCI) and as such in my official capacity I am acquainted with the facts and circumstances of the present case and competent to swear this affidavit.
- 2) That I have read the contents of the present Special Leave petition and I say that the contents therein to the extent they are inconsistent with the submissions made hereinafter in this affidavit are incorrect and are denied. Unless any averment or contention is specifically admitted or traversed, the same may be treated as being specifically denied. MCI is filing this reply affidavit in response to the show cause notice issued by this Hon'ble Court in the present Special Leave Petition.

- 3) It is submitted that it is the case of the Petitioner that the Petitioner society, is a registered society registered with the Registrar of Societies, Punjab under the name and style of Para Medical Council and the main grievance of the Petitioner is that in the State of Punjab and Haryana, there is no legislation regulating the field of paramedical training courses.
- 4) That the answering respondent-MCI is a statutory authority created and constituted by the Central Govt. under an Act of Parliament, namely, India Medical Council Act, 1956 (hereinafter referred to as the Act.) with the objective, inter-alia, to regulate medical education in the country and to formulate regulations and guidelines with regard to standards and conduct of medical education in India.
- 5) That Medical Council of India is an autonomous body established under the Indian Medical Council Act, 1956 and is functioning under the administrative control of Ministry of Health & Family Welfare, Government of India. Important functions of answering respondent are (i) Maintenance of minimum standards of medical education in the country, (ii) To provide registration to the individuals who qualify as a doctors from recognized institutions in India or Abroad which is included in the Schedule to the IMC Act, 1956, (iii) To hold inquiry or disciplinary action against registered medical practitioner with regard to any professional misconduct, (iv) Grant of letter of permission/renewal of permission in respect

of different medical colleges in India after conducting the assessment of these colleges etc.

- 6) It is most humbly submitted that Medical Council of India is an expert body constituted under the provisions of the Act and has been given the responsibility of discharging the duty of maintenance of highest standard of medical education and, as such the Hon'ble Supreme Court in the case of State of Kerala Versus T.P. Roshna (1979)1 SCC 560 had observed as under:

"The Indian Medical Council Act, 1956 has constituted the Medical Council of India as an expert body to control the minimum standards of medical education and to regulate their observance. Obviously, this high powered council has power to prescribe the minimum standards of medical education. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. Thus, there is an overall invigilation by the Medical Council to prevent sub-standard entrance qualifications for medical course".

- 7) That the Petitioner has filed the instant special leave petition against the judgment and order of the Hon'ble High Court of Punjab and Haryana dismissing the writ petition of the petitioner wherein the petitioner had prayed for issuance of writ in the nature of mandamus from the Hon'ble High Court directing the State of Punjab and Haryana to lay down

standards and norms for affiliation, recognition and registration of paramedical courses and to establish a State Authority or statutory body authorized to affiliate, recognise and register the institutions imparting such training in the field or /and allow formation of such a body and enact a law/legislation to this effect as has already been done in many other states and thereafter, consider the Petitioner institution for recognition as the State arbitrarily recognizes or not recognizes individual institutions without laying down any criteria for the said purpose.

- 8) That it is most respectfully submitted that the petitioner herein has no grievance against the Answering Respondent-MCI either in the said writ petition filed before the Hon'ble High Court or in the instant special leave petition. Moreover, the Indian Medical Council Act, 1956 under which the answering Respondent Council is established and is functioning does not empower the answering Respondent Council to deal in any manner with the subject of Paramedical education, teaching and training. In view thereof any grievance or claim of the petitioner like the present one fall outside the ambit of the powers and jurisdiction conferred by the Indian Medical Council Act, 1956 on the answering respondent-MCI and hence the Council has no powers to deal with issues relating to Paramedical education, teaching and training and also the registration or otherwise of the para medical professionals.

- 9) That no fact or ground was pleaded by the answering respondent-MCI in the present counter affidavit, which was not pleaded before the Courts below.
- 10) That in light of above facts and circumstances and principles of law it is most respectfully submitted that the present petition is not liable to be maintained qua the answering respondent MCI and deserves to be rejected against the answering respondent.


DEPONENT

THROUGH

AMIT KUMAR
Advocate for the Respondent No.7-MCI
B-45/47, Shiv Mahal Building
Connaught Place
New Delhi - 110001

VERIFICATION:

Verified at New Delhi on this 30th day June, 2012 that the contents of the above affidavit are true to my knowledge derived from the official records of the respondent council and also on the basis of information received and believed to be correct. No part of it is false and nothing material has been concealed therefrom.


DEPONENT