

SECTION IV B
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 1899 OF 2012

WITH PRAYER FOR INTERIM RELIEF

PARA MEDICAL COUNCIL (PUNJAB), MOHALI

Petitioner(s)

STATE OF PUNJAB & ORS.

Versus

Respondent(s)

To:-

- 1 The State of Punjab through
Secretary to Govt. of Punjab,
Department of Animal Husbandry,
Fisheries and Dairy Development,
Punjab Civil Secretariat, Chandigarh.
- 2 The Secretary,
Health and Family Welfare,
Govt. of Punjab, Chandigarh.
- 3 The Secretary,
Medical Education and Research,
Punjab, Chandigarh.
- 4 State of Haryana through
Secretary Medical Education,
Civil Secretariat, Haryana, Chandigarh.
- 5 The Secretary,
Health & Family Welfare, Haryana,
Civil Secretariat, Haryana, Chandigarh.
- 6 The Secretary,
Department of Animal Husbandry,
Haryana, Civil Secretariat,
Haryana, Chandigarh.
- 7 Medical Council of India,
Pocket-14, Sector-8, Dwarka,
Phase-I, New Delhi-110077.

WHEREAS the Petition for Special Leave to Appeal with prayer for interim relief above mentioned (copy enclosed) filed in the Registry by Ms. Kamini Jaiswal, Advocate on behalf of the Petitioner above named was listed

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for hearing before this Court on 25.1.2012, when the Court was pleased to pass the following order:-

"Issue notice.

Connect with S.L.P. (C) No. 29168 of 2011 - Para
Medical Council vs. State of Punjab and others".

NOW, THEREFORE, TAKE NOTICE that the above petition with prayer for interim relief will be posted for hearing along with S.L.P. (C) No. 29168 of 2011 - Para Medical Council vs. State of Punjab and others before this Court in due course and you may enter appearance before this Court either in person or through an advocate on record of this Court duly appointed by you in that behalf within 30 days from the date of service of notice. You may thereafter show cause to the Court on the day that may subsequently be specified as to why Special Leave and interim relief as prayed for be not granted and the resultant appeal be not allowed.

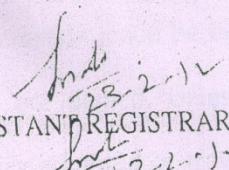
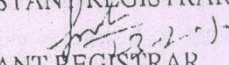
Take Further Notice that the prayer for interim relief after notice will also be listed before the Court.

You may file your affidavit in opposition to the petition as provided under Rule 13(1) of Order XVI, S.C.R.1966 (as amended) within 30 days from the date of receipt of notice or not later than 2 weeks before the date appointed for hearing, whichever be earlier, but shall do so only by setting out the grounds in opposition to the questions of law or grounds set out in the SLPs and may produce such pleadings and documents filed before the Court/Tribunal against whose order the SLP is filed and shall also set out the grounds for not granting interim order or for vacating interim order if already granted.

TAKE FURTHER NOTICE that if you fail to enter appearance as aforesaid, no further notice shall be given to you even after the grant of special leave for hearing of the resultant appeal and the matter above mentioned shall be disposed of in your absence.

Dated this the 10th day of February, 2012.

Copy to:- Ms. Kamini Jaiswal, Adv.
Samiksha


ASSISTANT REGISTRAR

ASSISTANT REGISTRAR

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 law

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

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".

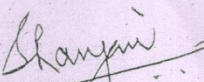
- 7) That the Petitioner has filed the instant special leave petition against the judgment and order of the Hon'ble High Court of Punjab and Haryana dismissing the writ petition of the petitioner wherein the petitioner had prayed for issuance of writ in the nature of mandamus from the Hon'ble High Court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

standards and norms for education, 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.

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.

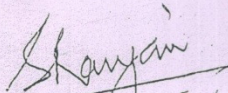

DEPONENT

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