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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2342 OF 2013

Dr.Munir Sufi Mhaskar ... Petitioner
Vs.
Medical Council of India and others ... Respondents

Mr. Mihir Desai with Rui Rodrigues i/b. Ms. Ammita Iyer for the
Petitioner.

Mr. Ritesh Ratnam. i/b. Mr. Ganesh Gole for Respondent No.1.

Mr. Rahul Nerlekar for Respondent No.2.

Mr. A.M. Gokhale for Respondent No.3.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : NOVEMBER 26, 2013

P. C.

1. Heard learned counsel on behalf of the Petitioner and Respondents. Learned counsel appearing on behalf of Respondent No.3-original complainant has raised a preliminary objection regarding the maintainability of this petition. It is submitted that, in view of Section 24 of the Indian Medical Council Act, 1956, against the order of removal of the name of the Petitioner from Indian Medical Register, the Petitioner has an alternate remedy to file an appeal before the Central Government. It is submitted that therefore the present



petition is not maintainable.

2. On the other hand, learned counsel appearing on behalf of the Petitioner submits that the Petitioner's grievance is that Indian Medical Council had not given an opportunity of hearing to the Petitioner and he alleged that the principles of natural justice were not followed. He submitted that he is, therefore, entitled to file the petition under Article 226 of the Constitution of India in this Court on that ground.

3. In our view, the objection regarding maintainability of the petition raised by Respondent No.3 cannot be accepted. It is a well settled position in law that even if there is an alternate remedy is available, if the impugned order is passed in breach of the principles of natural justice, such order can be challenged in this Court under Article 226 of the Constitution of India and the writ petition is, therefore, against such order would be maintainable in this Court.

4. Issue notice to Respondent Nos. 1 to 3, returnable on 21.1.2014. Learned counsel Mr. Ritesh Ratnam waives service of notice on behalf of Respondent No.1. Learned counsel Mr Rahul Nerlekar waives service of notice on behalf Respondent No.2. Learned counsel Mr.A.M.Gokhale waives service of notice on behalf of Respondent No.3. Reply to be filed by the Respondents within four weeks from today. Rejoinder, if any, to be filed within two weeks



thereafter. Pleadings to be completed within 8 weeks. Parties are at liberty to apply for a fixed date of hearing after the pleadings are completed. Liberty is granted to the parties to make an application for tagging of Writ Petition No.8830 of 2013, which is filed on the appellate Side alongwith this petition. Stand over to 21.1.2014. Interim order to continue till then.

[M. S. SONAK, J.]

[V. M. KANADE, J.]

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