

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.317/2000

MALAY GANGULY

Petitioner (s)

VERSUS

MEDICAL COUNCIL OF INDIA & ORS.

Respondent (s)

(With Office Report)
(For Final Disposal)

Date : 05/09/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)

Mr.M.N .Krishnamani,Sr.Adv.,
Mr.V.K. Monga,Adv.

For Respondent (s)

for Medical Council Mr. Maninder Singh,Adv.
Of India Ms.Pratibha M.Singh,Mr.Ankur Talwar,
Mr.Angad Mirdha,Mr.Kirtiman Singh,Advs.

for UOI Mr.Raju Ramachandran, ASG

Mr.Amit Mahajan,Adv.,
Ms.Sunita Sharma,Ms.Rekha Pandey,Ms.Anil Katiyar,
Mr.D.S. Mahra,Advs.

Mr. Sushil Kumar Jain,Adv.

Mr.Ejaz Maqbool,Adv.

Mr.Ravi K. Adsure,Adv.,
Mr.Mukesh K. Giri,Adv.
Mr.Uday Umesh Lalit,Adv.

Mr.Dinesh Kumar Garg,Adv.

Ms.U. Hazarika,Adv.,
Ms.Kamalashankar,Adv.,
Ms.Sumita Hazarika,Adv.

Mr. Tara Chandra Sharma,Adv.
Miss Neelam Sharma,Adv.,

Mr.Badri Prasad Singh,Adv.

Ms.Rachna Srivastava,Adv.,
Mr.Rohit Singh,Adv.

Mr. S. Srinivasan,Adv.,

Mr.Neeaj Kumar Jain,Adv.,
Ms.Kavita Wadia,Adv.

Mr. S.N. Bhat,Adv.

Mr. Janaranjan Das,Adv.,
Mr.Gaurang Biswal,Adv.,
Mr.Swetaketu Mishra,Adv.,
Ms.Moushumi Gahlot,Adv.

Mr. V.G. Pragasam,Adv.

Mr. Gopal Singh,Adv.,
Ms. Vani Singh,Adv.

Mr.John Mathew,Adv.,
Mr.Ramesh Babu M.R.Adv.

Ms.Naresh Bakshi,Adv.,
Mr.R.S. Suri,Adv.

Mr.Sanjeev Anand,Adv.,
Ms.Pooja Juneja,Adv.

Mr.B.S. Banthia,Adv.,
Mr.Naveen Sharma,Adv.

Mr.Ashok Kr.Srivastava,Adv.,
Mr.Sandeep Singh,Adv.

Mr.Pradyot Kumar Chakravarty,Adv.
Mr.Vipul Maheshwari,Adv.,
Mr.D.Stephen K.Yanthan,Adv.,

Ms. Hemantika Wahi,Adv.
Ms.Aruna Gupta,Adv.

Mr.A. Mariaputham,Adv.,
Ms.Aruna Mathur,Adv.for
M/s Arputham,Aruna & Co.

Mr. K.R. Sasiprabhu,Adv.

Ms. A.Subhashini,Adv.

Mr.Anil Shrivastav,Adv.,
Mr.Jyoti Dutt,Adv.

Mr.Khwairakpam Nobin Singh,Adv.
Mr.B.V. Niren,Adv.

Mr.D.N Ray,Adv.,
Ms.Sumita Ray,Adv.

Mr.Sanjay R. Hegde,Adv.,

Mr.Altaf H Nayak, Advocate General,J&K
Mr.Anis Suhrawardy,Adv.

Kumar Rajesh Singh,Adv.,
Mr.B.B. Singh,Adv.

Mr.S.K. Shandilya,Adv.,
Mrs.V.D. Khanna,Adv.

Mr.J.S. Attri,Adv.

Mr.V.K. Sidharthan,Adv.,
Ms.Krishna Sarma,Adv.,
Ms.Asha G.Nair,Adv.for
M/s.Corporate Law Group

Ms.Geetanjali Mohan,Adv.,
Mr.Prakash Srivastava,Adv.

Mr.Ranjan Mukherjee,Adv.

Ms.Ruby Singh Ahuja,Adv.

Mr.P.N Ramalingam,Adv.,

Mr.Ashok Mathur,Adv.

UPON hearing counsel the Court made the following

O R D E R

On 9.4.2001, this Court passed the order to the effect that one of the important issues to be decided in this matter is "whether the Medical Council of India has the jurisdiction to remove the name of a medical practitioner from Indian Medical Register irrespective of the fact whether the State Medical Council takes action or not".

It has been pointed out by the learned counsel for the parties that there is no clear provision on this issue.

Further following issues which were framed by this Court vide its Order dated 27.9.2002 also require consideration:-

"(1) Whether any time limit exists for the Medical Council of India to refer complaints to the State Medical Councils,

(2) Whether any procedure has been prescribed for removing the name of a doctor from the register maintained by the Medical Council of India apart from the report of the State Council under Section 24 of the Medical Council Act,

(3) Whether the Medical Council of India has permitted registration of medical practitioners who are not registered with any State Medical Council,

(4) Whether there is any provision to deal with the default on the part of any State Medical Council in complying with the time limit prescribed under the Notification issued in April, 2002,

(5) What steps have been taken to refer pending complaints as indicated in the chart at page 166 of the paper book to the respective State Councils"

It has been pointed out by the learned counsel for the parties that

(1) some of the State Governments have not constituted Medical Council, (2) Medical Council is not taking appropriate action against the defaulting doctors; (3) Unqualified persons are practising at the cost of the illiterate or semi-illiterate patients; (4) At present procedure for filing complaints against negligent doctors is not adequate to fully protect the patients.

Other question which requires consideration is if a medical practitioner is registered in one State and practise in some other State which State Medical Council can take appropriate action for negligence committed by him/her.

Issue notice to the Attorney General for India for assisting the Court on these vital issues which affects the citizen.

To be placed on 8th September 2003 along with I.A.in CA Nos.599-600/2002.

(Vijay Kumar Sharma)(Janki Bhatia)
AR cum PS to Hon.Judge Court Master