

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

Petition(s) for Special Leave to Appeal (Civil) No.10552-10553/2001
and SLP(C) Nos.10554-10555/2001
(From the judgement and order dated 04/06/2001 in LPA 299/01
and CM No.713/2001 in LPA No.299/2201 against interim order of
Single Judge dated 28.5.2001 in CWP No.7746/2000)

HARISH BHALLA

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 18/06/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI (Vacation Bench)
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. A K Chitale, Sr. Adv.
Mr. Rakesh Kumar Singh, Adv.
Mr. Devendra Singh,Adv.

For Respondent (s) Mr. Kirit N Raval, ASG
Mr. P P Rao, Sr. Adv.
Mr. Maninder Singh, Ms. Pratibha M Singh
Mr. U Hazariaka, Advs.

UPON being mentioned by the counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

Taken on board.
Leave granted.
Appeals are disposed of in terms of the signed
order.
Copy dasti to both the parties.

.SP1

(Meenu Sethi)
Court Master

(Om Prakash )
Court Master

(Signed Order is placed on the file)

.PA
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4006-4007..... OF 2001@@
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[arising out of S.L.P.(C) Nos. 10552-10553 of 2001]

Dr. Harish Bhalla

.. Petitioner

vs.

Union of India & Ors.

.. Respondents

AND@@

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CIVIL APPEAL NOS. 4004-4005..... OF 2001@@  
CC  
[arising out of S.L.P.(C) Nos. 10554-10555 of 2001]

Dr. Harish Bhalla

.. Petitioner

vs.

Dr. Ketan Desai & Ors.

.. Respondents

ORDER@@

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.SP2

Taken on board.

All the contesting parties are represented and with their consent the matter is heard finally.

Leave granted.

The appellant filed the writ petition laying challenge to the legality of respondent No.3 holding the office of the President of the Medical Council of India alleging him to be "usurper" in view of his term of office already having come to an end. The petitioner also sought for an ad-interim direction. Incidentally, the question of fresh elections to the office of the President scheduled to be held on June 21, 2001 came up for consideration of the Court. The learned Single Judge by order dated May 28, 2001 held the respondent No. 3 prima facie not entitled to hold the office of the President with effect from February 14, 2000 and,

:2:

therefore, directed the Vice President of the Medical Council of India to assume office of the President till such time the elections are conducted and new office bearers are elected in accordance with law. The order of the learned Single Judge was put in issue by Union of India as also by respondent No. 3 by filing Letters Patent Appeals. The Division Bench by order dated June 4, 2001 directed the operation of the order dated May 28, 2001 passed by the learned Single Judge to be stayed. However, the Division Bench clarified that this interim order would not come in the way of holding elections to the office of the President and the Vice President of the Medical Council of India scheduled to be held on June 21, 2001. The petitioner before the High Court has filed these petitions for special leave putting in issue the interim order of the Division Bench.

Having heard learned counsel for the parties and having taken into consideration the respective submissions but without expressing any opinion on the merits of the controversy lest it should prejudice the hearing of the matter before the Division Bench or the learned Single Judge who are still seized of the hearing of the appeal and the writ petition respectively, we propose to dispose of these appeals in terms of the following directions which, in our opinion, would meet the ends of justice :

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- (1) The ensuing elections to the office of President and Vice President shall be held under an Observer. Justice K. Ramamoorthy, a retired Judge of the Delhi High Court is appointed as the Observer for the purpose. The Observer shall be paid a fee of Rs.25,000/- by the Medical Council of India.
- (2) The Observer shall be in overall charge of the elections to the office of the President and the Vice President and objections as to the eligibilty of the candidates and/or validity of nominations shall be heard and decided by him. Needless to say, he shall conduct elections in accordance with the provisions of the Indian Medical Council Act, 1956 and the Rules and Regulations framed thereunder. In the event of any controversy being raised before the returning officer, he shall abide by the directions of the Observer.
- (3) We request the High Court to hear the appeal on 9th July, 2001, the date already appointed and on which date, the learned counsel for the parties present before us have assured, shall argue the matter without making any prayer for adjournment. The High Court would, thereafter, decide the appeal as expeditiously as possible.

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- (4) During the course of the hearing, learned counsel for the appellant submitted that in view of there being 56 vacancies and, therefore, the constitution of the Electoral College being defective (which is disputed by learned counsel for the respondents), it would not be fair to hold elections on June 21, 2001. That contention has not been raised before, much less determined by, either the learned Single Judge or the Division Bench. We leave that question to be raised and agitatated before the Division Bench seized of the hearing and express no opinion thereon.

Appeals disposed of.  
Copy dasti to both the parties.

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.....J.  
(R.C. LAHOTI)

.....J.  
(S.N. PHUKAN)

New Delhi;  
June 18, 2001.