(2013) 08 DEL CK 0354

Delhi High Court

Case No: Writ Petition (C) 4796 of 2013

N. Ramachandran		APPELLANT
	Vs	
Union of India and Another		RESPONDENT

Date of Decision: Aug. 14, 2013

Acts Referred:

- Indian Medical Council Act, 1956 - Section 14(1)

Hon'ble Judges: V.K. Jain, J

Bench: Single Bench

Advocate: S. Ravi Shankar, for the Appellant; Ankit, for MCI and Mr. Jatan Singh, CGSC for UOI, for the Respondent

Final Decision: Dismissed

Judgement

V.K. Jain, J.

The petitioner before this Court, after completing his MBBS from Bangalore University, did Post Graduation (Residency Training) in the field of General Preventive Medicine at Meharry Medical College, Nashville, Tennessee, USA. According to the petitioner, when he returned to India in February, 2004, he came to know that the Post Graduate Training Completion Certificate and the Masters Degree in Public Health, which he obtained from abroad, were not recognized in India. The petitioner, therefore, applied to Medical Council of India through the college, where he was working as a faculty member, seeking recognition of the training and qualification, which he had obtained in USA. Vide communication dated 10.09.2004, Medical Council of India informed the petitioner that Meharry Medical College Nashville, Tennessee, USA was not recognized by it for the purpose of IMC Act, 1956. Being aggrieved from MCI, not recognizing his degree and training obtained in USA, the petitioner filed a writ petition before Karnataka High Court. The writ petition was dismissed by the said High Court on 05.06.2008, noticing that the college in which the petitioner had studied in USA was not recognized by the Medical Council of India. Subsequently, vide notification dated 07.03.2009, issued by Ministry of

Health and Family Welfare, Government of India recognized all post graduate medical qualifications awarded in USA, for enrolment as medical practitioners in the concerned specialties in that country. Consequently, the Medical Council of India vide its communication dated 25.08.2010, informed the petitioner that his MBBS qualification and degree in Master of Science in Public health granted by Meharry Medical College, Nashville was a recognized post graduate medical qualification and he was eligible for enrolment as a medical practitioner in Public Health in India.

2. Claiming that the Medical Council of India had not recognized the MBBS Degree and training of the petitioner for the purpose of teaching in Medical Colleges, the petitioner filed W.P.(C) No. 6158 of 2011, before this Court, seeking the following reliefs:

A. Issue a writ mandamus or any other appropriate writ or order directing the respondents to allow him to teach in Medical College on the basis of his Residency in Preventive Medicine he did in Meharry Medical College, Nashville, Tennessee, USA.

B. Direct the 1st respondent to financially compensate him by issuing a NOC to a course which was not recognized in India at that point of time.

C. Direct the 2nd respondent to pay a suitable compensation for harassing the petitioner without any Policy with regard to recognition of foreign degrees.

D. Pass any other as this Hon''ble court deems fit in the circumstances of this case and thus render justice.

3. The aforesaid writ petition came to be dismissed vide order dated 27.08.2011, which inter alia, reads as under:

The petitioner earlier filed a writ petition in the High Court of Karnataka at Bangalore seeking direction for recognition of the training undertaken by him. It was inter alia the case of the petitioner in the said writ petition that if the course was not recognized in India the certificate should not have been issued to him and he was thus misled by the respondents. The said writ petition was dismissed vide judgment dated 5th June, 2008 and which has attained finality.

4. In view of the dismissal of the writ petition aforesaid, the petitioner cannot be held entitled to the reliefs of compensation as claimed in the prayer paragraphs ''B'' and ''C hereinabove.

5. As far as the relief in prayer paragraph ''A'' hereinabove is concerned, it has been enquired from the counsel for the petitioner as to under which provision of law/rules are the respondents to grant permission to the petitioner to teach. The counsel for the petitioner states that there is no such rule. He however states that medical college in which he is teaching is not promoting him.

6. Without the petitioner being able to show any obligation or duty owed by the respondents and which the respondents are not performing, the petitioner cannot be entitled to any mandamus. As far as the grievance of non-promotion of the petitioner is concerned, the same ought to be made against the medical college/hospital where the petitioner is teaching and no direction to the respondent can be issued in this regard.

4. Vide letter dated 13.08.2012, Karnataka Medical Council requested Medical Council of India to clarify whether the qualification of the petitioner, namely, MSPH and MD can be registered as additional qualification for a faculty position. It was stated in the communication that Internet verification was not found as a recognized and registrable qualifications for a teaching post. Pursuant to the aforesaid letter sent by Karnataka Medical Council, the petitioner is again before this Court seeking the following reliefs:

A) Issue a writ of mandamus or any other appropriate writ or order directing the Respondents, to allow him to teach in Medical Colleges on the basis of his Residency in Preventive Medicine he did at Meharry Medical College, Nashville, Tennessee, USA, in lieu of MD in Community Medicine in India as per the Section 14(1) of the Indian Medical Council Act of 1956.

B) Direct the First Respondent to respond to the letter dated 13.08.2012 sent by Karnataka Medical Council.

5. As regards the first relief sought in the writ petition, considering that earlier writ petition, seeking inter alia the very same relief was dismissed by this Court vide order dated 27.08.2011, another petition seeking the same relief is not maintainable. If the petitioner was aggrieved from the order dated 27.08.2011, rejecting his prayer for a direction to the respondents to allow him to teach in the Medical College on the basis of his Residency in Preventive Medicine, he ought to have challenged that order before an appropriate forum, but another writ petition, claiming the same relief is nothing, but an abuse of the process of law. As regards second relief sought in the petition, during the course of hearing, I specifically asked the learned counsel for the petitioner as to under which statutory provision Medical Council of India is required to decide whether a particular qualification obtained in a foreign country is to be treated as an additional qualification for a faculty position in a college or not. No such provision, however, was brought to my notice. The grievance of the petitioner seems to be primarily against the college in which he is teaching since he is not getting promotion on the strength of the qualification he claims to have obtained in USA. If that be so, the petitioner has to avail such remedy, if any, as is open to him in law against the college in which he is teaching and a writ petition against Medial Council of India and Union of India is not an appropriate remedy. In the absence of any statutory obligation on the part of MCI to decide whether a particular qualification is to be treated as an additional qualification for the purpose of teaching or not, the second direction sought in the writ petition cannot be given to the respondent Medical Council of India.

The writ petition is wholly misconceived and is hereby dismissed.