

**2026 LiveLaw (SC) 467**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
DIPANKAR DATTA; J., SATISH CHANDRA SHARMA; J.  
SLP (C) NO. 22707 OF 2023; MAY 6, 2026**

**DR. NIGAM PRAKASH NARAIN *versus* NATIONAL MEDICAL COMMISSION & ORS.**

**Service Law – Disciplinary Proceedings – Medical Ethics – Shift of Charges and Principles of Natural Justice – The appellant, a retired medical professor, faced a show-cause notice from the Medical Council of India (MCI) alleging that he had falsely appeared as faculty for inspection in two different medical colleges during the same academic year - The appellant successfully defended this charge by demonstrating that he was abroad during the second inspection - the Ethics Committee, acting on the directions of the Executive Committee, subsequently found the appellant guilty of a separate charge failing to disclose his previous appearance at another medical college within his declaration form - This alternative charge was never part of the original show-cause notice, and no opportunity for an explanation was given to the appellant regarding this omission - Held: The procedure adopted by the Executive Committee suffers from a serious flaw and amounts to a clear breach of the principles of natural justice - A disciplinary authority cannot punish a delinquent employee on a completely different or alternative charge that was not originally framed, without giving a fresh show-cause notice or providing a fair and reasonable opportunity to respond - Such an action constitutes a denial of a fair hearing. [Relied on *Ravi Oraon v. State of Jharkhand*, 2025 SCC Online SC 2192; Paras 12]**

**Constitution of India, 1950 – Article 142 – Modification of Penalty – Although the appellant committed a lapse through a brazen mis-declaration regarding his faculty appearances in the same academic year, the incident dated back to 2016 - Considering that a decade had passed, the appellant was now 76 years old, and the operation of the penalty had remained stayed throughout the litigation, the Supreme Court exercised its extraordinary powers under Article 142 to do complete justice - Supreme Court directed the National Medical Commission (NMC) to reduce the punishment from a three-month removal of the appellant's name from the Indian Medical Register to the issuance of a censure/warning. [Paras 13-16]**

*For Petitioner(s): Mr. Sunil Kumar, Sr. Adv. Ms. Rohini Prasad, AOR Ms. Ashika Ranjan, Adv. Ms. Samridhi Srivastava, Adv.*

*For Respondent(s): Mr. Prateek Bhatia, AOR Mr. Dhawal Mohan, Adv. Mr. Sajan Sankar Prasad, Adv.*

**J U D G M E N T**

**DIPANKAR DATTA, J.**

1. Leave granted.

**THE APPEAL**

2. The present appeal stems from a judgment and order dated 24<sup>th</sup> August 2023 passed by the High Court of Judicature at Patna<sup>1</sup> in L.P.A. No. 1608 of 2017, whereby the Division Bench, in exercise of its intra-court appellate jurisdiction, allowed the

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<sup>1</sup> High Court

appeal preferred by the Medical Council of India<sup>2</sup> (since substituted by the National Medical Commission<sup>3</sup>) and set aside the judgment and order dated 20<sup>th</sup> September 2017 passed by the Single Judge in C.W.J.C. No. 13547 of 2016, thereby restoring the order of penalty dated 21<sup>st</sup> July 2016 passed by the Ethics Committee of the MCI<sup>4</sup>, which had directed removal of the name of Dr. Nigam Prakash Narain<sup>5</sup> from the Indian Medical Register for a period of three months. The challenge to such judgment and order is at the instance of Dr. Narain.

### **FACTUAL MATRIX**

**3.** Facts giving rise to the *lis* are as follows:

**3.1.** Dr. Narain is a paediatrician. He holds a Ph.D. in Paediatrics and M.R.C.P. from the Royal College of Physicians, London, and has been registered as a medical practitioner with the Bihar Council of Medical Registration since the year 1976. He served as a faculty member in the Department of Paediatrics, Patna Medical College, Patna<sup>6</sup> since 1985, attaining the position of Professor and Head of the Department of Paediatrics from which he superannuated on 30<sup>th</sup> September 2014.

**3.2.** Post his retirement from the PMC, Dr. Narain was appointed as Professor, Department of Paediatrics, at Shridev Suman Subharti Medical College & Hospital, Dehradun<sup>7</sup> on 3<sup>rd</sup> January 2015<sup>8</sup>. Pursuant to this appointment, on 22<sup>nd</sup> January 2015, an MCI inspection was conducted at the SSSMC, wherein Dr. Narain appeared as faculty of the said institution before the Inspecting Team of the MCI.

**3.3.** In the meanwhile, Dr. Narain received an offer to rejoin the PMC as Professor on a non-cadre post of Professor on contractual basis. Accordingly, Dr. Narain submitted his resignation to the SSSMC *vide* letter dated 6<sup>th</sup> April 2015 and stood formally relieved from service *vide* relieving certificate dated 7<sup>th</sup> April 2015<sup>9</sup>. On the very same date, i.e., 6<sup>th</sup> April 2015, the Bihar Government, Health Department, issued a notification for the contractual appointment of Dr. Narain at the PMC. Dr. Narain joined the PMC on contractual basis on 10<sup>th</sup> April 2015, in pursuance of the office order of even date issued by the Principal, PMC.

**3.4.** Prior to the seed of the *lis*, i.e., the surprise inspection scheduled to be conducted by the MCI at the PMC on 5<sup>th</sup> May 2015, Dr. Narain had, on 21<sup>st</sup> April 2015, signed a Declaration Form (which was cosigned by the Head of the Department, Paediatrics, and the Principal of the PMC on 27<sup>th</sup> April 2015) and left the same with the Principal for safekeeping, to be produced before the Assessors of the MCI at the time of the surprise inspection. It is the admitted position that the said Declaration Form did not contain any mention of Dr. Narain's short stint at the SSSMC during the same academic year.

**3.5.** On 5<sup>th</sup> May 2015, the MCI conducted a surprise inspection at the PMC. Dr. Narain, however, was not present in the country on the date of the inspection. He had applied for and granted Ex-India leave for six days from 4<sup>th</sup> May 2015 to 9<sup>th</sup> May 2015,

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<sup>2</sup> MCI

<sup>3</sup> NMC

<sup>4</sup> Ethics Committee

<sup>5</sup> Dr. Narain

<sup>6</sup> PMC

<sup>7</sup> SSSMC

<sup>8</sup> *vide* appointment letter bearing Ref. No. JNSCT/2015/01/1596

<sup>9</sup> Bearing Ref. No. JNSCT/2014/04/310

to attend the 48<sup>th</sup> Annual Meeting of the European Society for Paediatric Gastroenterology, Haematology and Nutrition<sup>10</sup> held at Amsterdam, Netherlands. Dr. Narain left India on 4<sup>th</sup> May 2015 and arrived in Amsterdam on 5<sup>th</sup> May 2015, whereafter he returned to India on 10<sup>th</sup> May 2015. In the absence of Dr. Narain, the *lis* seed, i.e., alleged false/incomplete Declaration Form (kept in readiness with the Principal, PMC) was produced before the Assessors of the MCI during the inspection.

**3.6.** The MCI thereafter constituted a Sub-Committee to investigate the matter of alleged fake faculty declaration forms for the academic year 2015-16, concerning doctors whose names appeared in more than one medical college. On 9<sup>th</sup> December 2015, the MCI issued a show cause notice<sup>11</sup> to Dr. Narain, under the provisions of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002<sup>12</sup> wherein the Sub-Committee's observation was communicated that "*Dr. Narain had appeared for inspection in SSSMC on 22<sup>nd</sup> January 2015 and thereafter, in the same academic year, had appeared for inspection in PMC on 5<sup>th</sup> May 2015, without disclosing the fact of his appearance in the first inspection*".

**3.7.** Dr. Narain submitted a detailed reply by his letter dated 18<sup>th</sup> December 2015, accompanied by a sworn affidavit dated 19<sup>th</sup> December 2015. He denied that he had signed any declaration form in front of the Assessors on the day of inspection at the PMC and asserted that since MCI inspections are always surprise inspections, the declaration forms are customarily prepared well in advance by the institution and kept ready for production. He placed on record his passport and visa documents establishing his presence in Amsterdam on 5<sup>th</sup> May 2015. He also acknowledged that he had appeared before the MCI Inspection Team at the SSSMC on 22<sup>nd</sup> January 2015 as a faculty member of that institution. Separately, the Principal, PMC, also sent a representative, namely Shri S. N. Sharma, who was the Head of Department of Physiology, to the meeting before the Ethics Committee, submitting a clarification and stating that Dr. Narain did not appear in the inspection held on 5<sup>th</sup> May 2015 as he was on ExIndia leave from 4<sup>th</sup> May 2015 to 9<sup>th</sup> May 2015 to participate in ESPGHAN at Amsterdam. It was also submitted that the matter was fit to be dropped from consideration under Clause 8.5<sup>13</sup> of the 2002 Regulations.

**3.8.** The Ethics Committee, at its meetings held on 22<sup>nd</sup> and 23<sup>rd</sup> December 2015, concluded the aforesaid matter and found that Dr. Narain was not guilty of appearing at MCI inspections in two medical colleges in the same academic year, inasmuch as he was abroad attending a conference when the PMC was inspected on 5<sup>th</sup> May 2015.

**3.9.** The decision of the Ethics Committee was placed before the Executive Committee<sup>14</sup> of MCI at its meeting held on 27<sup>th</sup> February 2016 for approval. The Executive Committee, instead of approving the aforesaid conclusion, decided to refer the matter back to the Ethics Committee with advice to verify whether Dr. Narain had disclosed the fact of his appearance at the SSSMC assessment in his declaration form submitted for the PMC assessment held on 5<sup>th</sup> May 2015. It is submitted by Dr. Narain that no notice of this development was given to him.

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<sup>10</sup> ESPGHAN

<sup>11</sup> Bearing No. MCI-211(2)(91)(18)(Complaint)/2015-Ethics/154747

<sup>12</sup> 2002 Regulations

<sup>13</sup> **8.5** During the pendency of the complaint the appropriate Council may restrain the physician from performing the procedure or practice which is under scrutiny.

<sup>14</sup> Executive Committee

**3.10.** In light of the observations of the Executive Committee, the Ethics Committee purportedly perused the file and opined that the fact of Dr. Narain's appearance at the SSSMC on 22<sup>nd</sup> January 2015 as Professor (Paediatrics) in the MCI assessment during the same academic year was not disclosed in the Declaration Form submitted for the PMC assessment on 5<sup>th</sup> May 2015. The Ethics Committee, therefore, opined that Dr. Narain had thereby committed an act of serious misconduct as a doctor and as a faculty member of a medical college, and decided that his name be removed from the Indian Medical Register for a period of three months from the date of notification. The recommendation of the Ethics Committee was approved by the Executive Committee of MCI at its meeting held on 15<sup>th</sup> June 2016. It is categorically submitted by Dr. Narain that no opportunity of hearing was afforded to him in the course of these developments.

**3.11.** Pursuant to the aforesaid, MCI issued order dated 21<sup>st</sup> July 2016<sup>15</sup> directing that the name of Dr. Narain be removed from the Indian Medical Register for a period of three months from the date of notification.

**3.12.** Aggrieved thereby, Dr. Narain preferred a writ petition<sup>16</sup> before the High Court, praying for quashing of the MCI order dated 21<sup>st</sup> July 2016 and for a direction restraining Respondent No. 2 (the Registrar, Bihar Council of Medical Registration) from acting in pursuance of the said order.

### **PROCEEDINGS BEFORE THE HIGH COURT**

**4.** The Single Judge, by the judgment and order dated 20<sup>th</sup> September 2017, allowed the writ petition and set aside the order of penalty dated 21<sup>st</sup> July 2016. The Single Judge found, *inter alia*, that: (i) the resignation of Dr. Narain from the SSSMC and its acceptance was not disputed by the Ethics Committee or the MCI; (ii) Dr. Narain accepted the assignment at the PMC on contract only after resigning from the SSSMC, and therefore ceased to be a Faculty at the SSSMC the day his resignation was accepted, thus, he had no *mens rea* to be faculty at two medical colleges simultaneously, as he gave up his position at the SSSMC before accepting the offer at the PMC; (iii) the MCI and the Ethics Committee did not objectively examine this fact and instead took a very strict and technical view of the alleged aberration or omission, despite Dr. Narain having given up his position prior to assuming responsibility at the PMC; and (iv) while not being against the object and purpose of the Regulation, the decision to strike down the name of Dr. Narain from the Register of the Indian Medical Practitioner for three months was, in the facts of the present case, an erroneous decision.

**5.** The aforesaid judgment and order was carried in appeal<sup>17</sup> by the MCI before the Division Bench of the High Court. Notably, during the pendency of the said appeal, *vide* order dated 17<sup>th</sup> May 2023 passed in I.A. No. 3/23, the NMC was substituted by in place of the MCI.

### **THE IMPUGNED JUDGMENT**

**6.** By the impugned judgment and order, the Division Bench allowed the intra-court appeal and set aside the judgment and order of the Single Judge. While allowing the appeal:

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<sup>15</sup> Bearing No. MCI-211(2)(91)(18)(Complaint)/2015-Ethics/121346

<sup>16</sup> C.W.J.C. No. 13547 of 2016

<sup>17</sup> 17 L.P.A. No. 1608 of 2017.

**6.1.** The Division Bench upheld the power and duty of the MCI to conduct surprise inspections with a view to ensuring that standards of medical education are maintained and the minimum requirements as per the MCI guidelines are facilitated in every medical college.

**6.2.** On the question of the *lis seed*, i.e., alleged false/incomplete declaration, the Division Bench found that the signatures on both the Declaration Forms (i.e., the one submitted for the SSSMC inspection on 22<sup>nd</sup> January 2015, and the one submitted for the PMC inspection on 5<sup>th</sup> May 2015) tallied. It held that the Declaration Form for the PMC was dated 21<sup>st</sup> April 2015 and was signed by Dr. Narain in the presence of the Head of the Department and the Principal of the PMC; the signature of the HOD was co-dated 27<sup>th</sup> April 2015, far before the date of inspection. It held that Dr. Narain could not disown the said declaration merely on account of his absence from the country on the date of the inspection.

**6.3.** The Division Bench held that the declaration submitted for the PMC assessment did not disclose Dr. Narain's prior service with the SSSMC during the same academic year. In the academic year 201415, Dr. Narain had been first with the PMC, then with the SSSMC, and later again with the PMC on contract, which raises the issue of whether Dr. Narain had wrongly facilitated the SSSMC to enable approval from the MCI. It was of the view that such omission could not be condoned as a mere *bona fide* inadvertence, given the significance of such declarations to the process of approval by the apex regulatory body.

**6.4.** On the question of limitation, the Division Bench disagreed with the Single Judge's finding and held that Regulation 8.4<sup>18</sup> of the 2002 Regulations, which provides that decision on a complaint against a delinquent physician shall be taken within a time limit of six months, is only a caution to ensure expeditious disposal and does not constitute a bar that would frustrate an otherwise valid complaint against a medical practitioner. The Division Bench read Regulations 8.4 and 8.7<sup>19</sup> conjunctively to arrive at this conclusion.

**6.5.** The Division Bench found no violation of principles of natural justice, holding that the absence of Dr. Narain on the date of inspection was not a significant circumstance since what assumed relevance was the production of a declaration made and signed by Dr. Narain himself.

**6.6.** Accordingly, the Division Bench set aside the judgment and order of the Single Judge and restored the order of the Ethics Committee. It further directed that any notification required to be issued pursuant to the order of penalty shall be issued within three weeks from the date of receipt of the certified copy of its judgment, while also observing that the penalty shall operate only for the period for which it was imposed.

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<sup>18</sup> **8.4** Decision on complaint against delinquent physician shall be taken within a time limit of 6 months.

<sup>19</sup> **8.7** Where either on a request or otherwise the Medical Council of India is informed that any complaint against a delinquent physician has not been decided by a State Medical Council within a period of six months from the date of receipt of complaint by it and further the MCI has reason to believe that there is no justified reason for not deciding the complaint within the said prescribed period, the Medical Council of India may-

(i) Impress upon the concerned State Medical Council to conclude and decide the complaint within a time bound schedule;

(ii) May decide to withdraw the said complaint pending with the concerned State Medical Council straightaway or after the expiry of the period which had been stipulated by the MCI in accordance with para(i) above, to itself and refer the same to the Ethical Committee of the Council for its expeditious disposal in a period of not more than six months from the receipt of the complaint in the office of the Medical Council of India.

## **ISSUES INVOLVED**

**7.** In view of the aforesaid factual narrative, the following limited issue falls for our determination: Whether the Division Bench of the High Court was justified in interfering with the judgment of the Single Judge and in restoring the order of the Ethics Committee?

## **ANALYSIS**

**8.** What has not been disputed are the core facts. The fact that after his superannuation from the PMC, Dr. Narain was appointed as a Professor with the SSSMC, Dehradun on 3<sup>rd</sup> January 2015; he was formally relieved from service under the SSSMC on 7<sup>th</sup> April 2015; on 6<sup>th</sup> April 2015 he was appointed as Sr. Professor with the PMC; that he signed the Declaration Form for the PMC on 21<sup>st</sup> April 2015; that the surprise inspection was conducted on 5<sup>th</sup> May 2015; that Dr. Narain was not in India on the date of inspection and was participating in ESPGHAN at Amsterdam; that on 9<sup>th</sup> December 2015 he was issued a notice with respect to fake faculty declaration form submitted during the inspection conducted at PMC on 5<sup>th</sup> May 2015; Dr. Narain replied to the letter with a sworn affidavit on 18<sup>th</sup> December 2015; and that on 21<sup>st</sup> July 2016, the MCI issued the letter accepting the recommendation of Ethics Committee to remove the name of Dr. Narain from the Indian Medical Register for a period of three months.

**9.** The letter of Executive Committee which was impugned before the High Court, reads thus:

Whereas, the Ethics Committee considered the above matter at its meeting held on 18 April, 2016. The operative part of the decision reproduced as under:

“The Ethics Committee further considered the matter and noted that the Ethics Committee at its meeting held on 22<sup>nd</sup> & 23<sup>rd</sup> December, 2015, concluded the above matter. The above decision of the Ethics Committee after confirmation was placed before the Executive Committee at its meeting held on 27<sup>th</sup> February, 2016, for approval. While perusing the above minutes, the Executive Committee observed as under: -

“The Committee decided to refer back with an advice to verify whether Dr. N P Narain had disclosed the fact of his appearance at Subharti, Dehradun assessment into his declaration form submitted for Patna medical college for the assessment held on 5.5.2015 and resubmit the matter.”

In light of the observations of the Executive Committee, the Ethics Committee perused the file again and noted that Dr. Nigam Prakash Narain was absent on the day of assessment at Patna Medical College and went to abroad for a Conference.

Moreover, Dr. Nigam Prakash Narain has not disclosed the fact of his appearance in the first medical college at Shridev Suman Subharti Medical, Dehradun, Uttarakhand on 22.01.2015 as Professor (Pediatrics), in MCI assessment during the same academic year. The Ethics Committee further noted that by withholding information from MCI, regarding in two medical colleges within the same academic year by Dr. Nigam Prakash Narain has done an act of serious misconduct as a doctor and faculty member of a medical college. In view of above, the Ethics Committee decided that the name of Dr. Nigam Prakash Narain, be removed from the Indian Medical Register for a period of 3 (Three) months from the date of notification.”

The above recommendation of the Ethics Committee was approved by the Executive Committee of the Council at its meeting held on 15.06.2016.

**10.** Initially, charge framed in the show cause notice required Dr. Narain to explain his conduct with respect to fake faculty declaration forms where names of doctors

appeared in more than one medical college. It was his defence—uncontroverted by the respondents—that when the inspection came to be conducted at the PMC on 5<sup>th</sup> May 2015, he was not in India.

**11.** Dr. Narain, in his reply, which also enclosed a sworn affidavit by him, exhibited that neither of the declaration forms signed by him were fake. He admitted his signatures and contended that on the date of inspection at the PMC, he was participating in ESPGHAN at Amsterdam. Having accepted the reply, the Executive Committee referred the matter back to the Ethics Committee, which observed that Dr. Narain had not disclosed his appearance as a faculty with the SSSMC in the declaration form submitted during the inspection carried for the PMC— a charge that did not form a part of the show cause notice dated 9<sup>th</sup> December 2015.

**12.** Once the charge originally framed against Dr. Narain was successfully defended by him, the Ethics Committee (on being prodded by the Executive Committee) proceeded to hold Dr. Narain guilty of an act of omission, which was at variance with the charge. This was without informing him of the same and without calling for his explanation. There has, indeed, been a breach of principles of natural justice. A coordinate bench of this Court in *Ravi Oraon v. State of Jharkhand*<sup>20</sup> has held that once a delinquent employee had successfully defended a charge, the disciplinary authority, in absence of a fresh show cause notice, cannot punish the delinquent employee on a completely different charge which was not framed. This would be a denial of fair and reasonable opportunity of hearing and in violation of the principles of natural justice. Thus, the Executive Committee could not have imposed the punishment without issuing a fresh show cause notice and/or without granting Dr. Narain a fair and reasonable opportunity to respond to the new/alternative charge under consideration. We quite appreciate that the Executive Committee's decision, to that extent, does suffer from a serious flaw.

**13.** However, despite such flaw, sight cannot be lost of the fact that Dr. Narain has failed to answer, with any degree of conviction, why and how was the mis-declaration<sup>21</sup> made, which was alleged in the Executive Committee's order dated 21<sup>st</sup> July 2016. Failure to explain such a brazen mis-declaration, *ipso facto*, would afford a ground to view such mis-declaration as misconduct. Such mis-declaration on the part of Dr. Narain could not have been condoned by the Executive Committee.

**14.** What is of relevance now is the quantum of punishment.

**15.** At this juncture, we might also hasten to note that during pendency of the writ petition before the Single Judge, the operation of the decision of the Executive Committee was stayed. After the order of Single Judge in Dr. Narain's favour, the Division Bench did not stay the operation of the Single Judge's order or direct enforcement of the Executive Committee's decision. After the Division Bench's decision adverse to him, Dr. Narain approached this Court by way of the present petition. On 13<sup>th</sup> October, 2023 a Coordinate Bench of this Court while issuing notice in the petition, stayed the operation of the impugned order.

**16.** The decision of the Executive Committee dates back to 21<sup>st</sup> July 2016. Almost a decade has passed since then. Dr. Narain is now 76 years of age, having had the sword of Damocles hanging over his head since the last ten years. While it is true that

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<sup>20</sup> 2025 SCC Online SC 2192

<sup>21</sup> made on 21<sup>st</sup> April 2015, relevant part of which reads: 2. *I have not presented myself to any other Institution as a faculty in the current academic year for the purpose of MCI assessment.*

there has been a lapse on his part by mis-declaration in the Declaration Form—one which he now fairly admits—in the larger scheme of things, it may not be in the interest of justice to uphold the penalty imposed by the Executive Committee. The NMC, as is its professional obligation, is duty bound to ensure that the professional repute of doctors is maintained at its highest level within its governance framework. The order we propose to pass is not to fault the process undertaken by the MCI but to ensure complete justice between the parties. Accordingly, in exercise of our powers under Article 142 of the Constitution of India, we request the NMC to reduce the punishment imposed by the Executive Committee from removal of Dr. Narain's name from the Indian Medical Register for 3 months to issuance of a censure/ warning. An order to that effect may be issued by the NMC to Dr. Narain.

**17.** Thus, the civil appeal is allowed in the aforesaid terms. Interim orders, if any, stand vacated.

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