



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2023



PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 478 OF 2023 (GM-RES)

BETWEEN:

DR. MOHAN BHATTA M R,
.....

...APPELLANT

(BY SRI. GOVINDARAJU K.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
HEALTH DEPARTMENT,
VIDHANA SOUDHA,
BENGALURU-560 001.
2. THE DEPUTY COMMISSIONER
AND CHAIRMAN OF REGISTRATION
COMMITTEE FOR KARNATAKA
PRIVATE MEDICAL ESTABLISHMENT,
UDUPI DISTRICT-576101.

Digitally signed
by SHARADA
VANI B.
Location:
HIGH COURT
OF
KARNATAKA





3. THE DISTRICT HEALTH &
FAMILY WELFARE OFFICER
UDUPI DISTRICT, UDUPI-576 101.
4. THE SECRETARY,
INDIAN MEDICAL ASSOCIATION,
UDUPI DISTRICT, UDUPI-576 101.
5. THE DISTRICT SECRETARY
DISTRICT AYUSH OFFICER,
UDUPI DISTRICT, UDUPI-576 101.

...RESPONDENTS

(BY SMT.NILOUFER AKBAR.,AGA FOR R1 TO 3 & 5)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO CALL FOR THE RECORDS AND SET ASIDE THE ORDER DATED 13/03/2023 PASSED IN WRIT PETITION No. 57797/2018 AND ISSUE ANY OTHER RELIEF DEEMS FIT TO GRANT IN THE CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

This intra -Court Appeal by the Writ Petitioner seeks to call in question a learned Single Judge's Order dated 13.03.2023 whereby his Writ Petition has been dismissed. The prayer of the Appellant in the Petition was to essentially for quashment of the Endorsement dated 06.12.2018 whereby his Application for registration under Section 5 of the Karnataka Private Medical Establishments



Act, 2007 was rejected. He had also prayed for a direction to the Respondents herein for restraining their interference in his medical practice.

2. Learned counsel appearing for the Appellant vehemently argues that his client holds a PG Degree i.e., M.D. from Indian Board of Alternative Medicines and therefore, his discipline does not fall under the Department of AYUSH; he is entitled to practice in the branch of his specialization; therefore, the 2nd Respondent - Deputy Commissioner cum Chairman of Registration Committee ought to have granted registration for facilitating the avocation of his client. All these aspects, the counsel for the Appellant submits, having been wrongly treated by the learned Single Judge, the impugned order is liable to be voided and his Writ Petition needs to be allowed. Learned Additional Government Advocate appearing for the Respondent Nos. 1, 2, 3 & 5 opposes the Appeal making submission in justification of the reasoning of the learned



Single Judge and the Endorsement impugned in the Writ Petition.

3. Having heard the learned counsel for the parties and having perused the Appeal papers, we decline indulgence in the matter broadly agreeing with the views of the learned Single Judge. At paragraph No.6 of the impugned order specifically discusses about the requirement of Certificate of Registration issued by the State Medical Council as being a *sine qua non* under the provisions of Section 6 of the 2007 Act and Rule 5 (IX) (b) of the KPME Rules.

4. On our repeatedly asking, learned counsel for the Appellant is not in a position to tell us as to which regulatory body, his client is subject to in the matter of his profession as a Doctor. For the medical practitioners which fall under Alopathy Branch of Science, there is a regulatory body namely the Medical Council of India; similarly, there are statutory regulatory bodies for practitioners of AYUSH namely, Ayurveda, Yoga, Unani,



Siddha & Homeopathy. The protection of the Public includes not only matters relating to the health, safety and wellbeing of the public but also the maintenance of public confidence in the medical profession and the maintenance of proper professional standards & conduct, as observed by the Queen's Bench in **PSA FOR HEALTH AND SOCIAL CARE vs HEALTH AND CARE PROFESSIONS COUNCIL, 2021 4 WLR 31**. Professionals in general and the Medical Practitioners in particular do aspire to an ideal defining a standard of good conduct, virtuous character and a commitment to excel beyond the norm of morality ordinarily governing relations among ordinary persons. It needs no research to know the possible ill-consequences on public health, should persons who profess medical avocation be not disciplined by a Regulatory Body, whatever be its nomenclature. The impugned order inarticulately is animated with this view and therefore, does not call for our interference.



In the above circumstances, the Writ Appeal being devoid of merits is liable to be and accordingly dismissed. However, nothing hereinabove observed shall come in the way of Appellant seeking registration after complying all the requisites of law, afresh.

Costs made easy.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb/
List No.: 1 Sl No.: 17