

35723/18

Sri R.C. Nagaraj
Adv

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER, 2018

BEFORE

THE HON' BLE MR. JUSTICE B. VEERAPPA

WRIT PETITION Nos.48880-48882/2016(GM-RES)

BETWEEN:

1. DR. SHRIKANTH N. HEGDE
S/O NAGAPPA S. HEGDE
AGED 50 YEARS,
RESIDING AT DHANVANTHARI
5TH CROSS, VENKATESH NAGAR,
SHIMOGA 577201.
KARNATAKA MEDICAL COUNCIL
REGISTRATION NO.28118
2. DR. SRINIVASA BEVINJE KAKKILAYA
S/O VISHNU BEVINJE KAKKILAYA,
AGED 51 YEARS,
RESIDING AT AKSHAYA, KADRI KAIBATTAL
5TH CROSS, ALVARES ROAD,
MANGALORE 575002.
KARNATAKA MEDICAL COUNCIL
REGISTRATION NO.27070
3. DR. R. RAVINDRA,
S/O M. RAMAIAH,
AGED 53 YEARS,
RESIDING AT NO.652,
12TH MAIN ROAD, 2ND BLOCK,
RAJAJINAGAR, BANGALORE 560010.
KARNATAKA MEDICAL COUNCIL,
REGISTRATION NO.27416

... PETITIONERS

(BY SRI BASAVARAJ S., ADVOCATE)

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AND:

1. KARNATAKA MEDICAL COUNCIL
ESTABLISHED UNDER THE KARNATAKA
MEDICAL REGISTRATION ACT, 1961,
NO.16/6, 2ND FLOOR,
MILLER TANK BED AREA,
VASANTH NAGAR,
BANGALORE 560052.
REP. BY ITS PRESIDENT
2. THE REGISTRAR
KARNATAKA MEDICAL COUNCIL,
ESTABLISHED UNDER THE KARNATAKA
MEDICAL REGISTRATION ACT 1961
NO.16/6, 2ND FLOOR,
MILLER TANK BED AREA,
VASANTH NAGAR,
BANGALORE 560052.
3. STATE OF KARNATAKA,
BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF MEDICAL EDUCATION,
VIDHANA SOUDHA,
BANGALORE-560001.
RESPONDENT No.3 IMPEADED AS PER
THE COURT ORDER DATED 23.11.2018
... RESPONDENTS

(BY SRI R.C. NAGARAJ, ADVOCATE FOR R1 & R2;
MISS. NILOUFER AKBAR, ADDITIONAL GOVERNMENT
ADVOCATE FOR R3)

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THESE WRIT PETITIONS ARE FILED UNDER ARTICLE
226 OF THE CONSTITUTION OF INDIA PRAYING TO
DIRECT THE RESPONDENTS TO CONDUCT ELECTIONS TO
THE OFFICE TO MEMBERS OF THE KARNATAKA MEDICAL
COUNCIL STRICTLY IN ACCORDANCE WITH THE
PROVISIONS OF THE KARNATAKA MEDICAL
REGISTRATION ACT, 1961 AT THE EARLIEST.



THESE WRIT PETITIONS COMING ON FOR ORDERS
THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioners in the present writ petitions sought for a writ of mandamus directing respondents to conduct election to the members of the Karnataka Medical Council strictly in accordance with the provisions of Karnataka Medical Registration Act, 1961, ('Act' for short) and Rules 1963, at the earliest.

2. It is the case of the petitioners that they are the registered medical practitioners, registered on the rolls of the first respondent-Karnataka Medical Council. The first respondent is constituted under the provisions of Section 3 of the 'Act'. According sub section (2) the composition of the council shall consist of six members to be elected from amongst themselves by the medical practitioners who are registered under the 'Act'; Four members to be elected from amongst themselves by the



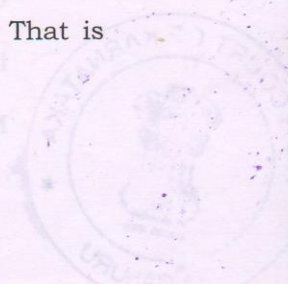
'teacher' and 'teachers of the University' and four members to be nominated by the State Government from being among registered practitioners and one member to be nominated by the State Government from amongst the members of the Karnataka State Dental Council, the Karnataka Pharmacy Council, the Karnataka Nursing Council, the Karnataka Ayurvedic and Homeopathy Council, by rotation for a period of one year. Section 5 of the 'Act' specifies that the term of office of the President and Vice President and other members of the Medical Council to hold office is five years from the date of the nomination or election or until their successors have been duly nominated or elected whichever is later and shall be eligible for re-nomination or re-election as the case may.

3. It is further contended that the calendar of events for the election to the membership of the Karnataka Medical Council was published on 15.04.2011 and the



election was held on 31.08.2011. The result of six candidates was declared on 01.09.2011. The election to the remaining four members from the teachers' category was also held on the same day. Now, as per Section 5 of the 'Act' the term of office of the elected members came to be expired in the month of September 2018. In spite of the representation made by the petitioners to conduct elections, the respondents have not commenced the process for elections. Therefore, petitioners are before this Court for the relief sought for.

4. When the matter came up before this Court on 23.11.2018, while issuing notice to the learned Government Advocate, she was directed to get instructions as to why the State Government has not considered the proposal of the respondent Nos.1 and 2 for framing new Rules vide letter dated 22.05.2017 and on two occasions, the matter was adjourned. That is



how, the matter is posted today for hearing on Interlocutory Application.

5. Today, Ms.Niloufer Akbar, learned Addl. Government Advocate for the third respondent filed the affidavit of one Sri K.L.Bagalawad, working as Under Secretary to the Government, Department of Medical Education, wherein at paragraph Nos.2 and 3 it is stated that, 'the Director, Directorate of Medical Education submitted the proposal for amendment on 09.10.2017 and the same was submitted to Government on 04.09.2018 for approval. If two months time is granted, a decision with regard to the proposals for amendments to the Karnataka Medical Registration Rules will be taken'. The said affidavit made on oath is placed on record.

6. Having heard the learned counsel for the parties, it is undisputed fact that the election to the Karnataka Medical Council was conducted in the year 2011 and



the term of office of the President, Vice President and other members came to be expired in the month of September 2016. But, according to the learned counsel for the respondents, it expires in the year 2018, in view of pendency of certain proceedings before this Court. Admittedly, as on today, respondents are bound to conduct the elections to the Karnataka Medical Council, in view of the provisions of Section 5 of the 'Act'. In view of the Affidavit filed by the Under Secretary to the Government, Department of Medical Education, there is no impediment for the respondents to conduct the elections, immediately after approval of the amended Rules by the State Government.

7. In view of the aforesaid reasons, the writ petitions are **allowed**. The respondents are hereby directed to take a decision with regard to proposal of amendment of Karnataka Medical Registration Rules, within a period of two months from today and if such approval is made



by the State Government, the second respondent shall initiate proceedings to conduct elections, strictly in terms of the provisions of the Karnataka Medical Registration Act, 1961 and Rules, 1963 and the amended Rules, if any, and proceed in accordance with law.

Ordered accordingly.

Sd/-
JUDGE

kcm

TRUE COPY
Section Officer
High Court of Karnataka
Bengaluru-560 001



- a) The date on which the application was made 13/12/18
- b) The date on which charges and additional Charges if any are called for
- c) The date on which charges and additional Charges if any are deposited/Paid 19/12/18
- d) The date on which the copy is ready 19/12/18
- e) The date of notifying that the copy is ready for delivery 22/12/18
- f) The date on which the applicant is required to appear on or before
- g) The date on which the copy is delivered to the Applicant 19/12/18
- h) Examined by