

(2023) 07 J&K CK 0009

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 1700 Of 2023, Civil Miscellaneous No. 3977 Of 2023

Dr. Ishar Dass Gupta And Ors

APPELLANT

Vs

UT Of J&K And Ors

RESPONDENT

Date of Decision : 04-07-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Dentists Act, 1948 — Section 32, 33, 33(b)

Citation : (2023) 07 J&K CK 0009

Hon'ble Judges : Rahul Bharti, J

Bench : Single Bench

Advocate : F. A. Natnoo

Judgement

Rahul Bharti, J

1. All the petitioners in the present petition have joined together to maintain the present petition though having their individual right to file the writ petition but given the common nature of the point in issue, the petitioners are invoking the jurisdiction of this Court under article 226 of the Constitution of India through the present common writ petition. All the petitioners are Dentists in terms of the Dentists Act, 1948.

2. The status of the petitioners as Dentist is by virtue of their recognition as provided under section 33(b) of the Dentists Act, 1948 which entitles a person who have his or her name entered in the register with respect to the profession of dentistry in the State if he holds a recognized dental qualification or without such dental qualification but having engaged himself or herself in the practice as a Dentist as his/her principal means of livelihood for a period of not less than five years prior to the prescribed date under section 32.

3. The petitioners are recognized as Dentist under this sub clause (b) of section 33 as is born out from the individual registration certificates placed on record. By

virtue of their profession as being Dentist, the petitioners are running respective dental clinics for quite long now.

4. A communication no. DRA/CERR/CMO-J/2022/493-94 dated 17.11.2022 of the Convener District Registering Authority CE(R&R) Act acting under the Clinical Establishments (Registration and Regulation) Act, 2010 whereby it is meant to be said that for a person to run a dental clinic possession of a recognized qualification i.e. graduation as per Clinical Establishment (Registration and Regulation) Act, 2010 is required, the learned counsel for the petitioners submits that by virtue of this communication the well established dental clinics of the petitioners have come to suffer prospect of closure as the renewal of their certificate may not take place.

5. The learned counsel for the petitioners submits that the situation as imported in terms of the aforementioned communication is contrary to the provisions of the Dentists Act, 1948 which recognizes a person with a recognized dental qualification and also a person with experience/practice of not less than five years to be entitled to carry on the profession of dentistry in the State now the UT of Jammu and Kashmir.

6. Prima facie case is made out.

7. Issue notice to the respondents.

8. Petitioners to furnish registered postal covers for the service of respondents within a period of 7 days, whereupon the Registrar Judicial, Jammu to issue notice to the respondents. Registrar Judicial, Jammu shall be entitled to extend time for furnishing of registered postal covers if not submitted within time given.

9. List on 16.08.2023.

10. In the meantime, the respondent no. 4 – Chief Medical Officer, Jammu to issue provisional registration in favour of the petitioners for the purpose of enabling them to carry on with their existing dental clinics.

11. This direction is, however, subject to objection from the other side.