

(2017) 05 J&K CK 0031

In the Jammu And Kashmir High Court

Case No : 279 of 2016 MP No 01 & 02 of 2016 MP No 4 & 5 of 2016

Javid Iqbal Qanungo & Ors.

APPELLANT

Vs

State of J&K & Ors.

RESPONDENT

Date of Decision : 06-05-2017

Acts Referred:

Citation : (2017) 05 J&K CK 0031

Hon'ble Judges : Ramalingam Sudhakar

Bench : SINGLE BENCH

Advocate : S. R. Hus sain, M. I . Dar

Final Decision : Disposed Of

Judgement

1. Four writ petitioners who are qualified Dentists have filed the instant writ petition for the following relief:-

(i) A writ of mandamus, directing the respondents to constitute the State Dental Council strictly in accordance with and in the manner prescribed

under Dentists Act of 1948, read with the J&K State Dental Council Rules of 2004 by holding elections as provided under the Act and the Rules.

(ii) A writ of certiorari, quashing the Government order No. 670-HME of 2001 dated 24.09.2001, Government order No. 293 HME of 2006

dated 09.05.2006, Government order No. 560-HME of 2013 dated 14.10.2013, Notification purportedly issued by respondent No. 8 inviting

applications for registration of Dental Hygienists and Dental Mechanics as Published in the daily "" Greater Kashmir"" in its publication dated

19.01.2016, and any other order issued by the Government of J&K regarding the nomination of any member or office bearer to the J&K State

Dental Council.

(iii) A writ of prohibition, restraining the respondents, particularly respondent No. 8 from acting in any manner as Registrar/Secretary J&K Dental

Council.

2. The cause of action for filing the writ petition was the unilateral action taken by respondent No.8. According to the petitioners claim respondent

No. 8 is a self-styled Registrar and has issued the Government orders which are challenged by way of Certiorari, alleging that respondent No. 8 is

not a competent person to hold said position and he is using the power and is acting arbitrary and in a manner prohibited under law. Petitioner also

pleads that this issue could be resolved if Dental Council is established in terms of Section 4 of the J&K State Dental Council Rules of 2004. This

is the sum and substance of the writ petition.

3. Heard Learned counsel for the petitioner, Mr. Hussain, Adv. and Mr. M. I. Dar, learned AAG for the respondents.

4. After much labour on the part of petitioners and persuasion by the learned counsel for the respondents, it appears that the State has woken from

slumber and has taken action to remedy the situation as a follow up. The respondents have taken action to remove the respondent No.8 which is

evident from Government order No. 336-HME of 2016 dated 07.06.2016. It is stated that notification issued by respondent no. 8 in his capacity

as Registrar/Secretary of the Dental Council has been rescinded. In this view of the matter, the relief No. i & ii has become infructuous.

5. This leaves us to the last question that is the formation of Dental Council by holding elections.

6. No reply is on the file on behalf of respondents. Mr. Dar, learned AAG states that State Government is going to taking steps to hold the

elections for the formation of Dental Council.

7. In this view of the matter, State is directed to hold the elections and constitute the Dental Council within two months from the date of receipt of

certified copy of this order in accordance with the Act and Rules.

8. The writ petition is accordingly, disposed of along with connected MPs.