

U-5059/04

17-19/2002 Jan 06/14/04

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Examined By : ~~Shri S.K.Hodhe~~ S.O. :
Shri V.V.Gajare, S.O. :

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High Court, Appellate Side
Bombay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

Order passed by the High Court in the Case of :-

- 1. Dr. Girish Jaisukhlal Mehta,)
Aged 49 years, Indian Inhabitant,)
Residing at 7, Laxmi apartments,)
1st Kasturba Cross Road,)
Chinchpada, Borivli (East),)
Bombay-400 066.)
- 2. Dr. Viren Babulal Vora,)
Aged 50 years, Indian Inhabitant,)
Residing at 1-F, Janvi CHS Ltd.,)
Plot No.2, Road No.4,)
Pandurang Wadi, Goregaon (E),)
Bombay-400 063.)
- 3. Dr. Deepak Tukaram Dalvi,)
Aged 39 years, Indian Inhabitant,)
Residing at 102, Meera apts.,)
Chirag Nagar, Ghatkopar (W),)
- 4. Dr. Hitendra Ramji Dedhia,)
Shop No.2, Anand Mangal Building)
Shiv Mandir Road, Ramnagar)



Act XVI of 1988
produced by the
Biochemic
(12) (a) of the

Dombivli (East), Thane-421 201,)
5. Dr. Sandeep Mulye,)
B2/5, Shakuntal Co-operative)
Housing Society, Anand Park,)
Thane (West).)
Bombay-400 089.)

..Petitioners

Versus

The State of Maharashtra)
through its Chief Secretary,)
having their office at)
Mantralaya, Bombay-400 032.)

..Respondents

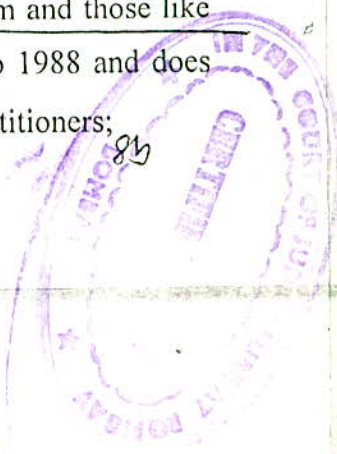
2. Medical Council of India
through its Registrar
To: Ajwan - E - Galib Marg,
Kotla Road, New Delhi.

3. Central Council of Homeopathy
through its Secretary,
Jawaharlal Nehru Bhartya
Chitksa aveun homeopathy,
Ansunhan Bhavan no 61/65
5th and 6th floor, OPP 'D' Block
Institutional Area, Janakpuri,
New Delhi 110058.

Being Writ Petition No.3816 of 2002, Under

Article 226 of the Constitution of India,praying that :-

a) that this Hon'ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or writ of certiorari or any other appropriate writ, holding and declaring that Maharashtra Act XVI of 1988 amending Section 20 (12) (a) does not apply to them and those like petitiones who have been admitted in the course prior to 1988 and does not affect the rights vested in petitioners and others like petitioners;

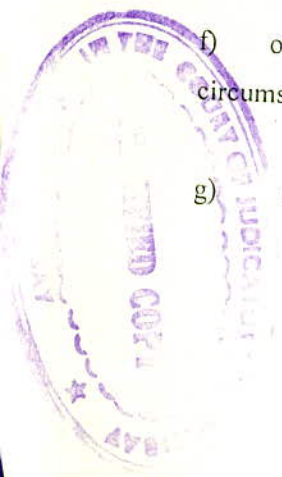


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70 AND 80
BOUND SHEET
L. m. 25
Dated this

- b) that this Hon'ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or writ of certiorari or any other appropriate writ, striking down the amendment under Section 20 (12) (a) vide Maharashtra Act XVI of 1988 and hold it ultra virus to the fundamental rights of the petitioners and others like petitioners to the extent that it prohibits the petitioners from practicing modern system of medicine which is known as allopathic system of medicine, to the extent of the training they received in that system and the said section be read as "(12) (a) Every registered practitioner shall be given a certificate of registration in the form prescribed by rules." i.e. prior to amendment sought by the State vide Maharashtra Act XVI of 1988;
- c) that this Hon'ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or writ of certiorari or any other appropriate writ or order quashing, setting aside and holding and declaring the notification dt.4.2.2002 bearing No. MCH/2002/2886/REF487/01/ ACT as illegal, void, ultra virus, bad in law and contrary to Article 14, 19 (1) (g) and 21 of the Constitution of India;
- d) that pending the hearing and final disposal of this petition, the enforcement of the Notification dated 4.2.2002 bearing No.MCH/2002/2886/ REF487/01/ACT amendment vide Maharashtra Act XVI of 1988 to and Section 20 (12) (a) be stayed in the interest of justice and direct the respondents their agents, servants, and subordinate officers not to interfere with, stop or otherwise interfere with the rights of the petitioners and other like petitioners to practice allopathy system of Medicine to the extent of training they have received in that system;
- e) interim and ad-interim reliefs in terms of prayer clauses (a) to (d) above be granted;
- f) other and further reliefs as are deemed fit and proper in the nature and circumstances of the case be granted;
- g) and the cost also be provided for.



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Petitioners and Advocate absent.

Shri V.P. Malvankar, AGP for
respondent No.1.

Smt. Simron Puri for respondent
No.2.

Shri Nitin Ghavre for respondent
No.3.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATE : 18TH MARCH, 2004

P.C.:

1. By this Petition, petitioners
pray for striking down the
provisions of Section 20(12)(a) of
the Maharashtra Act XVI of 1988.
Similar provisions had come up for

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consideration before the Supreme Court in the case of Poojash Verma vs Ashwin Patel and Ors. reported in (1996) 4 SCC 332. There, the Supreme Court has laid down that section 20(12)(a) of the Act mandates that the person registered as Homoeopathic Practitioner shall practice Homoeopathy only. In the face of this judgment, we see no reason to interfere. Petition stands dismissed.

18/03/2004

sd/-

25/3/2004,

For Additional Registrar

TRUE COPY



ASSISTANT REGISTRAR

THE 7th DAY OF APRIL, 2004

