

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

SWP Nos. 1105/2006, CMP No.1380/06

Date: 31.03.2009

Dr. J. N. Dhar & three others Vs. State & ten others

Coram:

Hon'ble Mr. Justice Virender Singh, Judge

Appearing counsel:

For petitioner(s): Mr. D. C. Raina, Sr. Advocate, with M/s S.S. Jamwal and F. A. Natnoo, Advocates.

For respondent(s): Mrs. S. Hakim, Dy. Advocate General.

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| i) | Whether approved for reporting
in Press/Media | Yes/No. |
| ii) | Whether to be reported in
Digest/Journal: | Yes/No. |
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O R A L:

Through the instant petition, the petitioners have invoked extra-ordinary jurisdiction of this Court projecting that patent violations of various provisions of Dentists Act, 1948 (hereinafter to be referred to as the 'Act') as well as State Dental Council Rules, 2004 (hereinafter to be referred to as the 'Rules') have been committed by respondents-1 and 2 inasmuch as appointment of respondent-4 as Returning Officer of the State Dental Council and the nominations/appointments of respondents-3, 5 to 10 are in complete derogation of the Act and the Rules. Therefore, through the medium of the instant petition, the petitioners sought the quashing of Government Order bearing No.163-HME of 2006 dated 20-03-2006, whereby respondent-4 under the garb of release

of grant-in-aid was allowed to utilize the funds as Returning Officer, and also Government Order No.293-HME of 2006 dated 09-05-2006, whereby respondents-3 and 5 to 10 have been nominated as office bearers/members of the State Dental Council.

Record reveals that while issuing notice, the operation of both the orders was stayed.

Pursuant to notice, Mrs. Shaista Hakim, learned Deputy Advocate General, had put an appearance and sought time to file reply, which exercise has not been done till date.

Mrs. Hakim states that she does not intend to file reply to the instant petition as in the other three writ petitions bearing numbers, SWP No.1610/2003, OWP No.447/2006 and OWP No.24/2007, she has made a categoric statement that the State has no objection if the petitioners therein are registered in Register-B of the State Dental Council and their names are also reflected in electoral roll as per the Rules governing the field. She then submits that since the said three petitions have already been allowed by separate order(s) of this Court of even date, she has no objection if the two orders impugned herein are also quashed. She rather submits that the State is interested in constituting the fresh State Dental Council as the term of the earlier Council has since expired by efflux of time and at this stage, the orders impugned herein cannot be made operational.

In view of the fair stand taken by Mrs. Hakim, the instant petition is allowed and both the orders, viz., Government Orders No.163-HME of 2006 dated 20-03-2006 and No.293-HME of 2006 dated 09-05-2006, are hereby quashed being not in accordance with the provisions of the Act and the relevant Rules holding the field.

CMP No. 1380/2006 also stands disposed of accordingly.

Jammu
March 31, 2009
T. Arora, Secy.

(*Virender Singh*)
Judge