

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition (PIL) No. 57 of 2013**

Dr. Hemendra Singh. .... Petitioner

Versus

State of Uttarakhand & others. .... Respondents

Mr. Manish Arora, Advocate for the petitioner.

Mr. Rajeev Singh Bisht, Brief Holder for the State of Uttarakhand / respondent Nos. 1 to 6.

Mr. Siddhartha Singh, Advocate for respondent Nos. 8, 10 & 21.

Mr. H.M. Bhatia, Advocate for respondent No. 12.

Mr. Parikshit Saini, Advocate for respondent Nos. 13 & 20.

**JUDGMENT**

**Coram: Hon'ble K.M. Joseph, C.J.**

**Hon'ble V.K. Bist, J.**

**Dated: 29<sup>th</sup> April, 2016**

**K.M. JOSEPH, C.J. (Oral)**

The prayers in this writ petition, filed in public interest jurisdiction, are as follows:

- “I. Issue a writ order or direction in the nature of Mandamus directing the respondents to take prompt and necessary action for preventing the unqualified and unregistered medical practitioner in District Haridwar (list of which was already provided to them in RTI proceedings) who without there being requisite qualification and registration with competent authority are practicing in dentistry in District Haridwar.
- II. Issue a writ order or direction in the nature of Mandamus directing the respondents to constitute a competent committee to find out / trace the unqualified and unregistered dentistry practitioners in all over the State of Uttarakhand, and after finding out these illegal practitioners, suitable action be taken against them by restricting them from such illegal practice and by lodging first information reports under the relevant provisions of Indian Penal Code.”

2. Briefly put, the case of the petitioner is as follows:

In District Haridwar, there are various persons, who are unauthorisedly practising in dentistry and carrying their dental clinic without having prescribed qualification and registration with the

competent authority. The continuation of such illegal clinics is causing immense danger to the health of the public, who visit these fake persons (so called dentists).

3. There is a case for the party respondents that the petitioner is also a BDS Doctor and that he is having a personal interest in the matter.

4. Respondent Nos. 8 to 21 are the party respondents, against whom, apparently, the allegations have been made. Counter affidavits have been filed. The case of the party respondents is that, actually, some of them are not practising dentistry at all and the others would contend that they only manufacture artificial implants.

5. A counter affidavit has been filed on behalf of respondent Nos. 3 to 5. Therein, it is, *inter alia*, stated as follows:

- “5. That it is submitted that after getting the permission on 8<sup>th</sup> September, 2011 from the State Government for taking action against the untrained and unregistered Dentist practicing in the district-Haridwar, the Public Information Officer in the office of Chief Medical Officer, Haridwar lodged complaint in the Court of Chief Judicial Magistrate, Haridwar against the 21 persons found practicing as Dentist without being registered under Dentist Act 1948. The complaint was lodged by the State Government through the Public Information Officer of the office of Chief Medical Officer, Haridwar under Section 48 of the Dentist Act 1948.
6. That at this stage it will be necessary to point out that Section-48 of the Dentists Act-1948 prohibits misuse of titles by any person and a person found engaged in misuse of title shall be punishable with fine which may extend to Rs. 500/- and on subsequent conviction with imprisonment which may extend to six months or fine not exceeding Rs. 1000/- or both. Section-52 of the Dentist Act provides that no Court shall take cognizance of any offence punishable under this Act except on complaint made by order of the State Government or the State Council.”

6. There is reference to a letter from the President of the Indian Dental Association. It is stated that inspections of the dental clinics / shops of the unqualified and unregistered dental practitioners were conducted by the

Medical Officer on various dates and they were issued show-cause notices. The persons, to whom notices were issued, contended that they are in possession of valid medical degree and they are registered under the Dentists Act; but, they were not able to produce any valid medical certificate or registration certificate showing that they are registered under the Dentists Act. A complaint was lodged under Section 48 of the Dentists Act, 1948 in the court of the CJM, Haridwar. It is stated that complaints have been lodged against 25 persons found unregistered, but still practising as dentists in district Haridwar. It is also stated that cases have been registered against 4 unregistered medial practitioners prior to 26.12.2011; on 02.02.2012, cases against 11 persons were lodged; and, again, on 04.04.2012, cases were lodged against 10 more persons. The cases are pending disposal. It is further stated that the Secretary, Medical, has issued letters to all the District Magistrates and the Chief Medical Officers directing them to take appropriate action. It is stated in paragraph 11 as follows:

“11. That on 23.3.2011, the Secretary, Medical issued a letter to all the District Magistrates, and the Chief Medical Officers directing them to take appropriate action against the persons who are practicing as untrained and unregistered dentist. The letter dated 23.3.2011 specifically mentioned that practicing dentist as unregistered and untrained, draw penal action under Section 47 to 51 of the Dentist Act 1948. A similar letter was also issued on 19.10.2011. Copies of the letter dated 23.3.2011 and 19.8.2011 are being filed herewith and marked as ANNEXURE NO. CA4 to this counter affidavit collectively.”

7. We record the submissions on behalf of the parties and also the pleadings and direct that action in accordance with law will be taken so as to prevent violation of the Dentists Act. The writ petition is, accordingly, disposed of.

**(V.K. Bist, J.)**  
29.04.2016

**(K.M. Joseph, C. J.)**  
29.04.2016

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