

Dr. Vaisakh Sanal vs Maulana Azad Medical College on 18 January, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 622/2023

DR. VAISAKH SANAL

Through:

Mr. Abhijit Mishra &
Singh, Advocate. (M:

versus

MAULANA AZAD MEDICAL COLLEGE

..... Respondent

Through: Mr. Arun Panwar, Advoca
(M:7827545811)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 18.01.2023

1. This hearing has been done through hybrid mode.
2. The petition has been filed by the Petitioner - Dr. Vaisakh Sanal seeking quashing of the order dated 28th July, 2022 issued by the Head of Department, Dept. of Forensic Medicine, Maulana Azad Medical College.
3. The petition has been filed in view of the circumstances wherein the final report of the Enquiry Committee dated 17th December, 2022 has arrived at a conclusion to the following effect:

"The Committee is of the opinion that this matter is not under the preview of the said Committee and should be taken up for a legal enquiry."
4. The allegation against the Petitioner is that he had indulged in unethical practice of skull removal from an unknown dead body. In view of this, the Petitioner was barred from conducting any post-mortem duties.
5. This is the third round of litigation by the Petitioner. In the first round of litigation in W.P.(C) 11915/2022 titled Dr. Vaisakh Sanal v. Maulana Azad Medical College & Ors., the said petition was disposed of by this Court vide order dated 16th September 2022 in the following terms:

"In view of the aforesaid and bearing in mind the fact that the enquiry is ongoing, the Court disposes of the writ petition by observing that the respondent College shall

ensure that the principles of natural justice are duly adhered to and the material which is proposed to be relied upon in that enquiry provided to the petitioner. The respondents shall ensure that the petitioner gets an adequate opportunity to defend himself in the said proceedings. All contentions of respective parties, on merits, are kept open. The order of 28 July 2022 shall abide by the final decision that may be taken in the enquiry proceedings."

6. Thereafter, since the said enquiry had not taken place, the Petitioner filed a contempt case bearing no. CONT.CAS(C) 1329/2022 titled Dr. Vaisakh Sanal v. Dr. Ritu Arora, Dean, Maulana Azad Medical College wherein this Court had directed that all the material which formed the basis for initiation of the enquiry would be provided to him and that the Petitioner would not seek adjournment.

7. Despite these two rounds of litigation, the matter has not moved inasmuch as that the Enquiry Committee has come to the conclusion that a legal enquiry would be needed.

8. Ld. Counsel for the Respondent relies upon the judgment of the Supreme Court in Union Of India & Ors vs P.Gunasekaran 2015(2) SCC 610 to argue that the Enquiry Committee has disabled itself from conducting any further proceedings.

9. As per the final Enquiry Committee report, the Petitioner has been allowed to participate in all the academic activities. The operative part of the order reads as under:

"5. On being asked about the indication for removing for removing of the skull from the dead body during conduction of post mortem, Dr. Vaisakh Sanal admitted that for academic purpose, such procedures are undertaken in the mortuary during post mortems. He also said that he himself has undertaken this procedure two to three times.

6. The student, Dr. Vaisakh Sanal may be allowed to participate in all departmental academic activities.

Dr. Meeta Singh, Member was apprised of the proceedings of the Committee telephonically next day she came and read all the statement.

The Committee is of the opinion that this matter is not under the preview of the said Committee and should be taken up for a legal enquiry."

10. Accordingly, it shall be ensured that the Petitioner's participation in the departmental academic activities is not hindered in any manner.

11. Issue notice to the Dean, Maulana Azad Medical College.

12. Mr. Pawar, ld. Counsel accepts notice for Respondent.

13. Let a short counter affidavit be filed by the Respondent within two weeks. Rejoinder, thereto, be filed within two weeks.

14. List on 9th March, 2023.

PRATHIBA M. SINGH, J.

JANUARY 18, 2023 dj/kt