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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL. APPEAL NO. 577 OF 2013

IN THE MATTER OF:-

Riyazuddin

...Appellant

Versus

The state (NCT of Delhi)

...Respondent

JUDGMENT PASSED BY SHRI M.K.
NAGPAL ASJ SOUTH EAST SAKET
COURT NEW DELHI ON 25.2.2013
AND SENTENCE DATED 4.3.2013
IN FIR NO. 53/2006 U/S 314/34
AND SEC 3,4,5 OF MTP ACT PS
SARITA VIHAR FOR FIVE YEAR
AND FINE RS. 1,05,000/-

MEMO OF PARTIES

1. Riyazuddin
son of Rafiq Ahmed
R/o J-67 Abul Fazal Enclave
Jamia Nagar Okhla, New Delhi -25 ...Appellant

Vs

State of NCT of Delhi

... Respondent

New Delhi
DATED:- 25.4.2013

FILED BY

Shakeel Ahmad
Shakeel Ahmad,
Advocate,

Chamber no. 670,
Lawyers block, Saket New
Delhi

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*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ Crl.A.No.577/2013, Crl.M.(Bail)No.1874/2013 &
Crl.M.A.No.4781/2014

RIYAZUDDIN

Through
versus

STATE NCT OF DELHI

Through ;

..... Appellant
Mr. Bharat Sharma, Adv.

..... Respondent
Mr. Nitin Saluja, Adv. for
Mr. Sidharth Luthra, Addl.
Solicitor General.
Mr. Varun Goswami, APP
for the State.
Mr. T. Singhdev, Mr.
Mohammadali Chaudhary,
Advs. for MCI
Mr. Praveen Khattar, Adv.
for DMC, DDC, DCTOT.
Mr. G.S. Rawat, Registrar,
Board of Homeopathy
System of Medicine, Delhi
Mr. Ashok Mahajan, Adv.
for Delhi Bhartiya Chikitsa
Parishad
Dr. R. Aggarwal, Addl.
Director of Health Services,
GNCTD.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

30.05.2014

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1. Dr. R. Aggarwal, Additional Director (Anti Quackery Cell),
Government of NCT of Delhi is present in Court and he submits

that Directorate of Health Services has issued an Office Memorandum dated 27th May, 2014 to implement the minutes of meeting dated 15th May, 2014. Copy of the Office Memorandum dated 27th May, 2014 is handed over along with relevant letters which are taken on record. It is submitted that this Office Memorandum has been put on the website of Govt. of NCT of Delhi. The Govt. of NCT of Delhi has also appointed the lead officers for each district. The list of lead officers with their addresses and phone numbers has also been put on the website and copy thereof is at page 5 of the documents.

2. Learned counsel on behalf of Mr. Sidharth Luthra, learned ASG submits that Delhi Police has also issued necessary circular to implement the minutes of the meeting on 22nd May, 2014. The copy of the said circular is handed over and is taken on record.

3. This Court hopes that the Office Memorandum dated 27th May, 2014 and the circular of the Delhi Police dated 22nd May, 2014 shall be implemented by all the concerned authorities to put an end to the menace of the quacks who pose a very serious danger to the entire society.

4. Learned counsels for the statutory Councils/authorities submit that subject to their representation being considered by Govt. of NCT of Delhi and Delhi Police, they shall cooperate with all the concerned authorities for implementation of the same. Mr. Praveen Khattar, counsel for Delhi Medical Council, Delhi Dental Council and Delhi Physiotherapy Council submits that their clients have submitted a representation to Govt. of NCT of Delhi in terms

of para 4 of the order dated 16th May, 2014. Counsel for the other Councils/authorities also have some suggestions with respect to the Office Memorandum and circular issued by Govt. of NCT of Delhi and Delhi Police respectively. Govt. of NCT of Delhi and Delhi Police shall consider all the representations on merits.

5. So far as the present proceedings are concerned, it is clarified that this Court was pained to note that there was no effective system for controlling the menace of quackery and therefore, this Court had issued notice to Delhi Police and other statutory bodies on 5th December, 2013 to find out whether there is any cell to take action against quacks. Mr. Sidharth Luthra, learned ASG appeared before this Court on 11th December, 2013 and disclosed about the anti-quackery cell of Govt. of NCT of Delhi whereupon notice was issued to them. This Court appreciates that all the concerned authorities adopted a positive approach and guidelines have now been framed by Govt. of NCT of Delhi and Delhi Police to control this menace which was otherwise spreading and no further order is necessary on this issue.

6. The broad action plan of Govt. of NCT of Delhi, Delhi Police and the statutory Councils/authorities in terms of the Office Memorandum dated 27th May, 2014 and the circular of Delhi Police dated 22nd May, 2014 is summarized as under:

(i) The Inspection Team comprising of CDMO (Chief District Medical Officer), nominee of ISM (Indian Systems of Medicine) and nodal officer of the statutory Council shall carry out inspection in each District at least once a month or more frequently based on the complaints/inputs. The office of CDMO will be the

meeting/convening point for the Inspection Team. The Lead Officer may requisition the police assistance, if required and shall forward the report for necessary action to the respective Councils, police and/or Court for further action as per law.

(ii) The Govt. of NCT of Delhi has notified the Chief District Medical Officer of each district to be the Lead Officer of the Inspection Team. The names, addresses and phone numbers of the Lead Officers have been uploaded on the website of Govt. of NCT of Delhi. The ISM and five Councils shall also nominate a nodal officer for each district by 5th June, 2014 and they shall send the list to the Lead Officers with a copy to Additional Commissioner of Police (HQ), DCP of each district as well as to Directorate of Health Services of Delhi Govt.

(iii) The Councils shall maintain a database of all surveys and mapping in relation to quackery and shall deploy sufficient logistics / resources to carry out these tasks on regular basis.

(iv) The Councils will put up the updated list of its members on their website which can be accessed by the Delhi Govt. as well as Delhi Police.

(v) The Registrar of each Council shall respond to the request for verification of a person within 24 hours and in any case not beyond 72 hours.

(vi) Whenever a quack is identified upon verification by a Council, the closure proceedings of his/her medical practice shall be the responsibility of the respective Councils.

(vii) The Councils shall give adequate publicity to generate public awareness against quackery.

(viii) The Drug Control Department shall also check malpractices and send a monthly report to the Lead Officer of the Anti Quackery Team.

(ix) The Medical Superintendent, Nursing Home Cell, Directorate of Health Services, Govt. of NCT of Delhi shall take appropriate action against Nursing Homes/Hospitals who employ

unqualified persons as RMO's and shall send a monthly report to the Lead Officer of the Anti-Quackery Team.

(x) The Lead Officers shall send a quarterly Action Taken Report along with his suggestions/recommendations to the Additional Director, Anti-Quackery Cell, Govt. of NCT of Delhi.

(xi) The Delhi Police shall promptly register an FIR upon receipt of a complaint from the Delhi Medical Council (DMC) and Delhi Bhartiya Chikitsa Parishad (DBCP) warranting the action under Section 27 of DMC Act or under Section 30 of DBCP Act, 1998 respectively.

(xii) SHO's of the police station shall adequately brief the division/beat staff to gather information about quacks proactively. The credential of doubtful persons shall be verified from the concerned Council and if the report of a Council discloses the suspect to be a quack, SHO shall promptly register a case under the appropriate legal provisions.

(xiii) SHO shall forward the outcome of the investigation to the concerned Councils to enable the Council to file the complaint under Section 28(2) of DMC Act, 1997 or 31(2) of DBCP Act, 1998 as the case may be.

(xiv) The primary responsibility as regulators shall be performed by the respective Councils viz. Delhi Medical Council, Delhi Bhartiya Chikitsa Parishad, Board of Homeopathic System of Medicine, Delhi Council for Physiotherapy & Occupational Therapy and Delhi Dental Council who shall diligently discharge their responsibilities. Directorate of Health Services and Directorate of AYUSH shall continue to play a supportive and coordinative role at the administrative level.

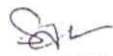
7. Coming back to the merits of this case, considering that the State has challenged the impugned judgment of the Sessions Court in Criminal Leave to Appeal No.558/2013 which is listed before the Division Bench of this Court on 4th July, 2014; it would be

appropriate that this appeal be considered by the Division Bench along with Criminal Leave to Appeal No.558/2013.

8. Subject to the orders of the Hon'ble the Chief Justice, list this appeal before the Division Bench on 4th July, 2014 along with Criminal Leave to Appeal No.558/2013.

9. Dasti.

MAY 30, 2014
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J.R. MIDHA, J



