

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI
LANKA

In the matter of an application for a mandate in the nature of a Writ of Certiorari quashing the decision of the Professional Conduct Committee of the Medical Council suspending a Medical Practitioner .

Rathanayake Mudiyanseelage Chandrasiri

Tennakoonwela

No: 14, 5th lane

Jambugamulla Mawatha,

Nugegoda.

Petitioner

C.A. Application No:

C.A. Writ 277/17

Vs.

1. Sri Lanka Medical Council,

No. 31,

Norris Canal road,

Colombo 10.

and others

C.A. 277/2017

Writ Application

Before : P. Padman Surasena, J. (P/CA) &
A.L. Shiran Gooneratne, J.

Counsel : Anuja Premaratne P.C. with Nawshalya Rajapaksha,
Nayana Dissanayake , R Senadeera, Sahan Rajapaksha
for the Petitioner.

Chathura Galhena instructed by Ms. B. Hettiarachchi
for the 1st respondent.

Argued &

Decided On : 16.02.2018

P. Padman Surasena, J. (P/CA)

Court heard the submissions of the learned President's Counsel for the Petitioner as well as the learned Counsel for the 1st respondent. The petitioner seeks in this application to challenge by way of a writ of certiorari, the findings contained in the document produced marked **P11**. The petitioner is a medical practitioner who has been charged by the 1st respondent under four counts. The charges in these counts pertain to some incidents of having sexual intercourse with a female patient whom the petitioner had examined. The

petitioner has been found guilty of all four charges. He has been imposed a punishment of suspension for a period of 5 years from exercising his rights, privileges and immunities conferred upon him by virtue of a registration as a medical practitioner.

The contention of the learned President's counsel for the Petitioner is that the disciplinary authority did not conduct this inquiry in the proper way. It is therefore his submission that the charges have not been proved at the inquiry. However as pointed out by the learned counsel for the respondents we observe that the Petitioner has admitted under oath before the preliminary proceedings committee that he has had sexual intercourse with the female patient.

Further, the chairman of the preliminary proceedings committee, Dr. Nanda Amarasekara also has given evidence under oath and confirmed this position. We observe that the petitioner has not asked a single question from this witness when the opportunity for cross examination was afforded to him. Further the Petitioner has not called any other witnesses on his behalf to controvert the position taken up by the chairman of the preliminary proceedings committee.

In these circumstances, this Court is of the opinion that the charges framed against the Petitioner by the Sri Lanka Medical Council have been

proved on the admissions made by the Petitioner alone. Therefore, this Court is of the opinion that the decision contained in the document marked **P11** is well founded and substantiated. Hence it is a decision made according to law. This Court sees no merit in this application.

In these circumstances, we refuse to issue notices on the respondents.

Application is dismissed with costs.

PRESIDENT OF THE COURT OF APPEAL

A.L. Shiran Gooneratne,J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-