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THE TRAVANCORE-COCHIN COUNCIL OF MODERN MEDICINE
 COMBINED COUNCIL BUILDING, RED CROSS ROAD, THIRUVANANTHAPURAM- 695 035, KERALA, INDIA.

PROCEEDINGS OF THE REGISTRAR TRAVANCORE COCHIN MEDICAL COUNCIL
(Present : Muhammed Hussain A.)

Sub:- TCMC-Disciplinary proceedings-unethical acts-use of title consultant sonologist without having sufficient qualification and registration by Dr.Subrahmanya Bhat. K -complaint received-Disciplinary proceedings finalised-orders issued - reg.

Read:-1. Order of TCMC No.E-2255/08/MC dated 30-08-2008
 2. Complaint of Dr.T.V.Padmanabhan dated 03-04-2019
 3. The recommendation of Ethics Committee meeting held on 20-09-2019
 4. The decision of Modern Medicine Council held on 19-03-2021

ORDER NO. A2-9496/2019/MC/Comp. DATED: 17/05/2021

Dr. T. V. Padmanabhan, Chairman Anti Quackery committee, IMA, Kerala State Branch put a complaint against Dr. Subrahmanya Bhat.K before this Council alleging that being an MBBS doctor without having Post Graduate qualification he is practicing as a consultant Sonologist on the strength of a PC-PNDT certificate and violating the direction of Travancore-Cochin Medical Council not to use the title "Consultant Sonologist".

The Ethics Committee of Modern medicine Council on perusing the complaint felt it necessary to hear the respondents in detail and accordingly notice was issued to him and he appeared before the Ethics Committee and heard in detail. In the meanwhile he filed a writ petition before the Hon'ble High Court of Kerala stating that the Council has not given opportunity of being heard. The Court passed an order directing the council to give another opportunity to the respondent for personal hearing. Therefore notice was issued to him for

personal hearing in compliance with the direction of Hon'ble High Court of Kerala and he appeared before the Ethics committee and heard in detail. He raised many contentions substantiating continued practice as consultant Sonologist in spite of the prevailing order of Travancore Cochin Medical Councils. The above order also challenged by the respondent before the Hon'ble High Court of Kerala in WP(C) 30366 of 2008 and the Hon'ble Court disposed the writ petition with a direction to Dr. Subrahmanya Bhat to approach appellate authority ie. Medical Council of India by way of appeal. But the order under read above was not taken up for challenge by way of appeal before the Medical Council of India or communication regarding setting aside the decision of this Council's order was not produced by the Dr. Subrahmanya Bhat or received from any competent authority. Therefore the order of this council dated 30-08-2008 became absolute and binding on him.

The contention of the complainant and respondent considered in detail by the Ethics Committee and the main contention of respondent Dr. Subrahmanya Bhat is that he is continuing the practice as consultant sonologist as he has right to do so in the light of training obtained by him in Pre Natal Diagnostic Techniques (Prohibition of sex selection) Act 1994.

In the above circumstances the council has considered the whole aspects in detail includes the contentions put in by complainant and also counter argument put forth by the respondent.

In this respect it is worth mentioning that the Pre-Conception and Pre Natal Diagnostic Techniques Act specifically provides the scope and application of enactment in its preamble which reads as follows.

An act to provide for the prohibition of sex-selection, before or after conception and for regulation of pre natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital mal

formations or sex linked disorders and for the prevention of their misuse for sex determination leading to female foeticide, and, for matters connected therewith or incidental thereto.

This further sec.2(P) of PC-PNDT Act defines sonologist ie.

“Sonologist or imaging specialist means a person who possess any one of the medical qualifications recognised under the Indian Medical Council Act 1956 or who possesses a Post-graduate qualification in Ultra sonography or imaging techniques or Radiology”.

The preamble of PC-PNDT Act specifically provides the area of application is limited to the area that the enactment covers. This law is exclusively the special law applicable to the area of Pre Natal Diagnosis. Where in the definition under section 2 (P) makes it clear that a Sonologist or imaging specialist, must be a person who posses any one of the qualifications recognised under the IMC 1956. Since IMC Act 1956 is a special law prescribing qualification and other criteria of medical practitioners of the country including post graduation & Super Speciality must be include in the Schedule of the statute for recognition and registration. No qualification enumerated in IMC Act 1956 is considered to be a valid qualification which cannot be claimed by any one. The present case Dr. Subrahmanya Bhat is only certificate holder after attending training under PC-PNDT Act which he can use it for so purpose of pre conception & pre natural diagnostic purposes stipulated by the statute. This law does not over ride or conflict with IMC Act 1956 or any of its provisions but both of these laws are in distinct and separate area and which does not encroach each other area and functions appropriately and independently in specific area mentioned therein. With regard to general practice of sonology one has to acquire such qualification in proper manner and it has to be properly registered in the council also. Dr. Subrahmanya Bhat has trained to run mere genetic clinic however he has always doing his area of practice as consultant sonologist. The documents produced by the complaint shows that he has claiming such qualification without

having a recognised qualification of Post graduation in this area or valid registration. His registration number 36760 in this council shows that he is acquired only primary medical qualification as namely MBBS no other qualification is seen as registered. During the hearing respondent Dr. Subrahmanya Bhat does not have claimed he has acquired such post graduate qualifications from the recognised university or shown any proof of such qualification.

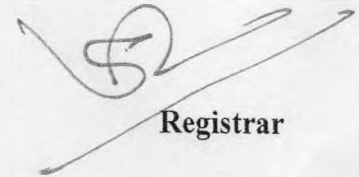
This council on 30-08-2008 passed an order directing him not to claim or practice as consultant Sonologist since he has not acquired and registered such qualifications. This order was taken up for challenge before Hon'ble Highcourt in WP(C) 30366/2008. The judgement in the above case directed Dr. Subrahmanya Bhat to approach appellate authority (MCI) by enlarging the limitation period. But Dr. Subrahmanya Bhat has not seen filed any appeal as directed by Hon'ble High Court of Kerala or not produce any order in appeal setting aside the order of this council dated 30-08-2008. Therefore the order of this council dated 30-08-2008 became absolute and binding on him.

The complainant preferred a complaint with sufficient proof of violation of the order of this council to Dr. Subrahmanya Bhat on 30-08-2008. The Ethics Committee after observing all procedural formalities referred the matter to Modern Medicine Council for appropriate punishment for the gross violation of 1st order of the council and continued the violation of laws prevailing in medical practice. The council in turn issued notice under Rule 64 of Travancore Cochin Medical Council Rules after finding out that he has violated the professional ethics which deserves punishment. He pleaded not guilty as alleged either in complaint or as findings of the council and he has very right to practice as consultant sonologist and pleaded for personal hearing for one more time through online. Accordingly he was allowed to appear to present his contentions again through online on 19-03-2021. After affording an opportunity Council decided to remove his name from the register for a

period of two months from the date of issue of order. This tentative decision was again conveyed to Dr. Subrahmanya Bhat who was through online in the meeting and he pleaded not guilty and not impose any punishment or removal. Considering the gravity of the the violation and continued violation even after the direction in 2008 the council unanimously decided to remove his name from register of Modern Medicine Council for a period of two months from the date of issue of order. During the removal period Dr. Subrahmanya Bhat is not eligible for any medical practice as that of a medical practitioner expected to do during his or her valid registration period such as consulting patient prescribing medicine or surgery or other related matters as part of medical practice.

Therefore the name of Dr. Subrahmanya Bhat K (Reg.No. 36760) is removed from the register of Modern Medicine Council of Travancore Cochin Medical Councils for a period of '**TWO MONTHS**' from the date of this order.

This order will automatically come to an end on expiration of term mentioned in the order his registration therefore automatically considered to be reinstated unless otherwise any other punishment in any other manner against him is prevailing.



Registrar

To,

1. Dr.Subrahmanya Bhat.K
Shrivari House, Mavungal, Opp.Swami
Ramadas Shishumandir, Anandashram P.O.,
Kangangad, Kasaragod

Copy to:

1. Dr. T .V. Padmanabhan
Thekkeveetil, Lakshmi Nagar,
Kangangad, Kasaragode – 671315.
2. Dr. N. Raghavan,
Kumkumam, Periya P.O.
Kasaragode - 671316.

3. The Director of Medical Education
Government of Kerala
Government Medical College
Thiruvananthapuram
4. Director of Health Services
Govt.of Kerala
Thiruvananthapuram
5. The Secretary
Clinical Estt.Council

It is requested to ensure that Dr.Subrahamanya Bhat.K
Is not practicing during the removal period

- 5 National Medical Commission
- ✓ 6 All state Medical Councils
- 7 C2 section
- 8 File
- 9 Website