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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 06<sup>th</sup> October, 2025*

+ CONT.APP. (C) 17/2015 & CM APPL. 29290/2015

MEDICAL COUNCIL OF INDIA

.....Appellant

Through: Mr. Kirtiman Singh, Senior  
Advocate with Mr. T. Singh Dev,  
Mr. Bhanu Gulati and Ms. Yamini  
Singh, Advocates

versus

DR MEENAKSHI GAUTHAM & ANR

.....Respondents

Through: Mr. Pranav Sachdeva, Mr. Abhay  
Nair, Mr. P. Rohit Ram, Mr.  
Sanyam Jain, Advocates.  
Mr. Premtosh K. Mishra, CGSC  
with Mr. Siddharth Bajaj and Mr.  
Prarabdh Tiwari, Advocates.  
Mr. Shubham Janghu and Mr.  
Manish Kumar, Advocates for  
Intervenor-IMA

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT (ORAL)**

**NITIN WASUDEO SAMBRE, J.**

1. This contempt appeal, preferred under Section 19(1)(a) of the Contempt of Courts Act, 1971, (*hereinafter referred to as "the Act of 1971"*) has been pending since 2015.



2. The appeal has been repeatedly adjourned at the behest of the appellant, and the respondents have strongly objected to the repeated grant of adjournments, which prompted this Court, on 9<sup>th</sup> September 2025, to grant a last chance to the appellant.

3. The present contempt appeal is directed against the order delivered by the learned Single Judge of this Court on 2<sup>nd</sup> September 2015, wherein the following observations were made:

...“ 41. *In the opinion of this Court, once the Central Government has undertaken to introduce the B.Sc. (Community Health) course, it must take the lead and give the course a firm legal footing and introduce it in institutions and universities run by the Central Government and also provide help to the State Governments to introduce the same. Also, once the syllabi, curriculum and course have been finalised and the graduate has been identified to treat a range of common diseases that are easily treatable at the primary level, there is no reason why he/she should not be allowed to practice independently. Moreover, the Division Bench while passing the order dated 10th November, 2010 did not indulge in an exercise in futility!*

42. *Though logically speaking the Court should now proceed to hold the contemnors guilty, yet this Court is of the view that as confusion has been created by the Medical Council of India due to change in its stand, the respondents should be given another opportunity to implement the order dated 10th November, 2010 in letter and spirit.*

43. *The suggestion that the Schedule under Section 11(2) of the IMC Act should be amended and/or the suggestion that a new Act with regard to B.Sc. (Community Health) should be passed on the lines of the Indian Nursing Council Act, 1947, should be considered by the Union of India along with any other option that it may deem appropriate. The Medical Council of India should also prepare the*



*syllabi and curriculum for the bridge course as undertaken before the Division Bench.*

*44. Whatever steps the Medical Council of India and the Union of India intend to take to give a right to B.Sc. (Community Health) graduates to practice modern medicine to treat common diseases as identified in the curriculum, should be undertaken within a period of six months, failing which, appropriate officers of the respondents will be held responsible.”*

4. The fact remains that the contempt petition is still pending consideration, and the order punishing the contemnors under the Act, of 1971, is yet to be passed. What has been done by the learned Single Judge, *vide* order dated 2<sup>nd</sup> September 2015, which is under challenge in the present appeal, is the issuance of directions and the grant of an opportunity to the appellant to comply with the order.

5. If we see the language employed in Section 19(1) of the Act of 1971, an appeal can be said to be maintainable in case a decision or order has been passed by the High Court in “*exercise of its jurisdiction to punish for contempt*”.

6. We are required to be sensitive to the fact that the contempt petition is still pending, and if the appellant is to be proceeded against under the Act of 1971, the Court after granting an opportunity of hearing, will decide whether there is an intention to disobey the orders of the Court.

7. *Prima facie*, we are satisfied that the directions issued by the learned Single Judge on 2<sup>nd</sup> September, 2015 cannot be said to be the one wherein the jurisdiction to punish for contempt has been exercised.



8. We are fortified in our view by the decision of the Supreme Court in *Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal Nanda and Others*, (2006) 5 SCC 399, wherein it was held as under:

*“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:*

*I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.*

*II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.*

*III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.*

*IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.*

*V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute*



*between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”*

9. At this stage, the learned Senior Counsel for the appellant strenuously urges that the directions issued in *paragraphs* 41 to 44 virtually amount to the exercise of jurisdiction under the Act of 1971 for awarding punishment, as can be inferred from the consequences of the observations made in *paragraph* 44. According to him, what remains is only the ritual of passing a consequential order awarding punishment for non-compliance.

10. We are not in agreement with the aforesaid contention from the Senior Counsel for the appellant, particularly, when the contempt petition itself is pending and the order under challenge does not impose any punishment on the appellant under the Act of 1971. Interference at this stage is not only uncalled for but would also render the remedy under the Act of 1971 redundant, as the same will result in restraining the Contempt Court, which is seized of the matter, not to exercise the contempt jurisdiction.

11. In addition to the above, our attention has also been invited to the observations made in the order dated 25<sup>th</sup> September 2024 in ***W.P.(C) 13208 of 2009*** titled ***“Dr. Meenakshi Gautham & Anr. v. Union of India & Anr.”*** According to the learned Senior Counsel appearing for the



appellant, clarification was given by the Division Bench, keeping it open for the appellant to raise the issues under the provisions of the *National Medical Commission Act, 2019*, in the pending contempt appeal or in any other appropriate proceedings, which according to him makes the present appeal maintainable.

12. If we appreciate the aforesaid contention, we are required to be sensitive to the settled position of law that the appeal is a creation of statute. The exercise of appellate powers are subject to the qualifications prescribed under Section 19(1) of the Act of 1971, which in our opinion, are not satisfied in the facts and circumstances of this case. The observations made in the order dated 25<sup>th</sup> September 2024 cannot be read in support of the claim put forth by the appellant, particularly when the Division Bench in the Writ Petition has granted liberty to the appellant to canvass the grievance or the contention in contempt appeal or any other appropriate proceedings. We are of the view that, by the order passed by the Division Bench in the Writ Petition, the contempt appeal, which is otherwise not maintainable in law, cannot be entertained by bypassing the statutory mandate provided under Section 19(1) of the Act of 1971.

13. It is always open to the appellant to prefer appropriate proceedings, which shall of course be considered in accordance with law. That being so, the said contention is also rejected.

14. In our opinion, in case, the appellant is punished under the Act of 1971 only then the remedy under Section 19 of the said Act, would be available.



2025:DHC:8842-DB



15. That being so, we hold that the present contempt appeal preferred under Section 19(1) of the Act of 1971 is not maintainable. Accordingly, the present appeal is dismissed as not maintainable.

16. Pending application, if any, is rendered infructuous.

17. Needless to clarify, this Court has not gone into the merits of the matter, and the remedy, if any, in respect of the order, against which this appeal has been preferred, can be pursued by the appellant before an appropriate court, in accordance with law.

18. A copy of this judgment be uploaded on the website of this Court forthwith.

**NITIN WASUDEO SAMBRE  
(JUDGE)**

**ANISH DAYAL  
(JUDGE)**

**OCTOBER 6, 2025/pr/sk**