

HAND DELIVERY

**FORM III-A
IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH
WRIT PETITION NOS.211065-066 OF 2020 (CS-EL/M)
[Notice under Rule 13(a) proviso]**

BETWEEN

DR. GACHINMANI NAGANATHA
AGED ABOUT 70 YEARS, OCC: MEDICAL PRACTITIONER
R/O: DARGA ROAD, JAGAT, KALABURAGI – 585 101.

... PETITIONER

(BY SRI. AMEET KUMAR DESHPANDE, ADV.)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRL. SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
(MEDICAL EDUCATION)
M.S. BUILDING, BENGALURU – 01.
2. THE RETURNING OFFICER FOR THE
ELECTION TO THE KARNATAKA MEDICAL COUNCIL
AND THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
BENGALURU – 01.
3. THE REGISTRAR
KARNATATKA MEDICAL COUNCIL
VASANT NAGAR, BENGALURU – 52.



... RESPONDENTS

(LEARNED AGA TAKES NOTICE FOR R1 & R2)

Whereas Writ Petition filed by the above named Petitioner under Articles 226 and 227 of the Constitution of India as in the copy annexed hereunto, has been registered by this Court.

Emergent Notice is hereby given to you to appear in this Court in person or through an Advocate duly instructed or through someone authorized by law to act for you in this case, **within 05 days** from the date of service of notice to show cause why Rule nisi should not be issued.

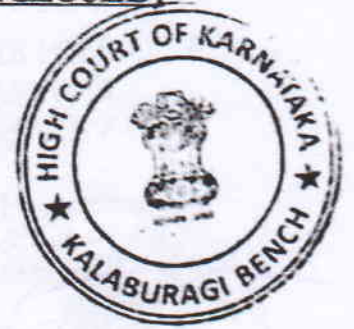
If you fail so to appear on the said date or any subsequent date to which the matter may be posted as directed by the Court, without any further notice, the petition will be dealt with, heard and decided on merits in your absence.

INTERIM PRAYER

The Advocate for Petitioner has prayed that this Hon'ble Court may be pleased to issue an interim direction, directing the respondent No. 2 herein to permit only such members to contest and vote in the election to the post of members of Karnataka Medical Council in the election to be held on 23.01.2020, whose names are found in the list published by the Registrar of Karnataka Medical Council as per Section 26 of the Karnataka Medical Registration Act, 1961, the copy of the extract of which is at Annexure-A and the entire details of which are found in the official website of the Karnataka Medical Council, pending final disposal of this writ petition.

Pending Issue of *rule nisi* in the aforesaid Writ Petition, it is hereby ordered by this Hon'ble Court on the 17th Day of January, 2020 by Hon'ble Mr. Justice Sachin Shankar Magadam as follows: -

(COPY OF THE ORDER DATED: 17.01.2020 IS ENCLOSED)



SSMJ:
17.01.2020

W.P.Nos.211065-211066/2020

ORDER

Learned Additional Government Advocate is directed to take notice for respondent Nos.1 and 2. Issue emergent notice to respondent no.3.

The learned Additional Government Advocate would raise a preliminary objection that the Registrar of Karnataka Medical Council is not a party to the writ petitions. This contention raised by the Additional Government Advocate is upheld and in fact the petitioner ought to have arrayed the Registrar of Karnataka Medical Council as one of the respondent to the writ petitions. In view of the urgency in the matter the counsel for the petitioner is permitted to implead the Registrar of Karnataka Medical Council as respondent no.3. Counsel for the petitioner is permitted to amend the cause title and is also required to furnish amended cause title of the writ petition.



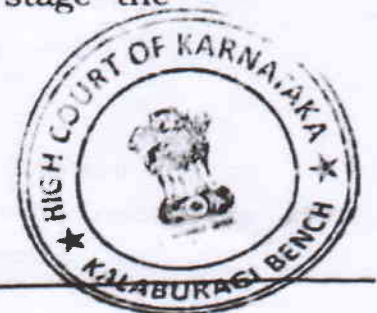
The counsel for the petitioner has filed the top noted writ petitions seeking a direction against respondent no.2 not to act upon the list of members prepared by second respondent/Returning Officer as per Annexure-C. The grievance of the petitioner before this Court is that the second respondent/Returning Officer has included the left-out members who have not sought renewal of their registration as contemplated under Section 19 of the Karnataka Medical Registration Act, 1961 (for short 'the Act').

Counsel for the petitioner would vehemently argue that the exercise of preparing the list is contemplated under Section 26 of the Act and under Section 26 of the Act, it is only the Registrar who has got the authority to issue a list of members and this exercise is to be done by the Registrar in consonance with the procedure contemplated under Section 19 of the Act.



In the present case, the grievance of the petitioner is that it is the Returning Officer/second respondent who has included several names in the list in absence of renewal of their registration. The counsel for the petitioner would also bring it to the notice of this Court that the third respondent has already issued a renewed list and same is published in the official website in terms of Section 26 of the Act. The subsequent list, which is at Annexure-C prepared by the respondent no.2/Returning Officer, is one without authority. In that view of the matter, the petitioner counsel would vehemently argue and contend that the members who are not sought renewal of their registration are not eligible to contest and cast their votes in the election which is to be held on 23.01.2020.

Sri K.M.Ghate, learned Additional Government Advocate would stoutly object and submit that since the process of election has commenced, at this stage the petitioner is not entitled for any interim order.



Having perused the provisions of the Karnataka Medical Registration Act, 1961 *prima facie* it appears that second respondent/Returning Officer has ventured into usurping the powers of third respondent by preparing a list as per Annexure-C which is not permissible under the Act.

In that view of the matter, the second respondent is directed to proceed with the election as per the extract furnished by the petitioners as per Annexure-A which is also published on the official website of the Karnataka Medical Council.

Sd/-
Judge

// COPY //

[Signature]
ASSTANT REGISTRAR



---:FREE LEGAL AID WILL BE PROVIDED TO:---

(1) SC/ST, Woman, Child, Prisoners, an Industrial workman, monthly (1) (2) Others whose annual income is less than Rs. 1,00,000 - Eligible persons may contact the Member Secretary, High Court Legal - Services (High Court Annex, KALABURAGI. Phone No. 08472-264141.