

**Dr. Hossain Aalamani**

*Appellant*

v.

**The General Medical Council**

*Respondent*

FROM

**THE HEALTH COMMITTEE OF THE  
GENERAL MEDICAL COUNCIL**

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JUDGMENT OF THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL,  
Delivered the 16th May 1995  
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*Present at the hearing:-*

Lord Goff of Chieveley  
Lord Nicholls of Birkenhead  
Lord Hoffmann

*[Delivered by Lord Goff of Chieveley]*

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There is before their Lordships an appeal by the appellant, Dr. Hossain Aalamani, from a determination of the Health Committee of the General Medical Council on 18th October 1994 that the appellant's fitness to practise was seriously impaired by reason of his physical or mental condition, and a direction that his registration should in consequence be suspended for a period of 12 months, pursuant to section 37(1)(a) of the Medical Act 1983. Furthermore, pursuant to section 38(1) of the Act and to the General Medical Council Health Committee (Procedure) Rules Order of Council 1987 ("the Rules") the Health Committee directed that the appellant's registration should be suspended forthwith, such a direction being necessary for the protection of members of the public and in the appellant's own interests. At the same time, pursuant to rule 27 of the Rules, the Health Committee indicated that they would resume consideration of the appellant's case before the end of the period of suspension, before which time the appellant would be invited to be medically examined, and recommended that he should place himself under the medical supervision of a consultant psychiatrist who would be asked to report on his progress.

The appellant did not attend the hearing and was not represented. Evidence was then placed before the Committee that the Notice of Referral had been sent by recorded delivery both to the appellant's registered address and to his home address which had been notified to the Council as his address for correspondence. Both letters were returned marked "Gone Away". Further evidence was given of two unsuccessful attempts to serve the appellant at his home address. As a result the Committee, having satisfied themselves that all reasonable efforts had been made to serve the appellant in compliance with rule 37 of the Rules, decided pursuant to rule 17(3) to proceed with the hearing.

Evidence was then placed before the Committee of matters giving rise to concern about the appellant's fitness to practise. This evidence took the form of letters from a number of doctors, viz. Dr. Raghu Gaiind (a distinguished Consultant Neuropsychiatrist who had known the appellant personally since the early 1980's); Dr. Keyvan Zahir and Dr. Johnson-Sabine, both of whom expressed concern about the mental health of the appellant whilst employed in October 1993 as a locum consultant psychiatrist at St. Ann's Hospital, of which Dr. Johnson-Sabine was Medical Director; and Dr. James MacKeith, referring to a meeting with the appellant on 18th March 1994. All of these doctors expressed anxiety about the mental health of the appellant. Much of this anxiety stemmed from what appeared to be exaggerated claims about scientific discovery. In one of the letters, the writer stated:-

"I am very worried about him. He is obviously not well. I told him bluntly and clearly that his claims were false and exaggerated. I suggested that he should receive medical help."

In fairness to the appellant, the attention of the Committee was also directed to other documents indicating that, at the relevant time, the appellant was functioning adequately as a practitioner.

On 31st January 1994 the General Medical Council had written to the appellant inviting him to be medically examined. By a letter dated 6th February 1994, the appellant agreed to such an examination; but in the event neither of the two Consultant Psychiatrists appointed as medical examiners was able to examine the appellant. The appellant insisted on being examined in his mother tongue (Farsi), if necessary through an interpreter, despite the fact that he had come to this country in 1984 and had since then held numerous posts in this country as a psychiatrist. Indeed, he admitted that he had experienced no difficulty in coping with his English-speaking patients. Their Lordships were informed that his insistence on being examined in Farsi arose from a feeling that his colleagues in the medical profession in this

country were hostile to him, with the result that he feared that, if he was examined in English, his answers might be "twisted". However, even after the Council had, by letter dated 29th April 1994, offered that his medical examination should take place with the assistance of an interpreter chosen by the medical examiners solely on the ground of linguistic ability, the appellant did not co-operate. On 10th May 1994 he wrote to the Council criticising what he described as the "menacing tone" of the Council's letter dated 29th April, and stated that he was going abroad to attend to urgent business of a body called the "World General Medical Council" of which he claimed to be President, and to attend to his sick mother, and accordingly he could not "be contacted in order to legally effect service". His letter (which was written in Farsi) continued (in translation) as follows:-

"After my return I will contact the GMC of my own motion. Please therefore do not write any further letter to my London address and the residents are instructed not to sign for any recorded delivery letters addressed to me."

There followed two further letters from the Council, dated respectively 16th and 28th June 1994, sent to both his registered address and his home address. The first warned him that, if he did not co-operate with the arrangements proposed for his medical examination, his case would be referred to the Health Committee. The second stated that his case was being referred to the Committee. No reply was received to either letter. Notice of Referral was served to both addresses by letter dated 19th September 1994, giving notice that the hearing would take place on 18th October 1994.

Such is the nature of the determination by the Health Committee, and the background to that determination, against which the appellant appeals. At the hearing before their Lordships, the appellant was represented by counsel, Mr. Ramdhun, who said everything that could be said on his behalf. In particular, he pointed out that the hearing took place in the appellant's absence, and submitted that it was a breach of the rules of natural justice for the Committee to proceed with the hearing in circumstances where the appellant had no opportunity to be heard. He referred to the appellant's statement in his letter dated 10th May 1994 that he would contact the GMC after his return from abroad, and submitted that the Committee should have awaited his return before considering his case.

Next, counsel referred to rule 24(3) of the Rules, which provides as follows:-

"Where the practitioner has refused or, in the opinion of the Committee, has failed to submit to medical examination in accordance with rule 6(4)(b)(i), rule 11, rule 27, or rule 31(3) the Committee shall be entitled, if they think fit, to find that the practitioner's fitness to practise is seriously impaired on the basis of the information before them and the practitioner's refusal or failure to submit to medical examination."

He submitted that the appellant had not refused to submit to medical examination. When counsel was asked whether it was suggested that the Council had imposed any unreasonable conditions in respect of the examination, he responded that the conditions in which the examination was to be held would or may have appeared to be unreasonable to the appellant, having regard to his sense that his medical colleagues in this country were hostile to him.

Counsel also submitted that the Committee should not have taken into consideration evidence in the form of letters from other doctors, because such evidence was hearsay, though that submission overlooked the express words of rule 24(3) which provides that the Committee shall be entitled to proceed on the basis of the "information" before them. He finally submitted that the evidence was not sufficient to justify a determination that the appellant's fitness to practise was seriously impaired.

Their Lordships are unable to accept any of these submissions. Most of the submissions did not amount to allegations that the Committee had erred in law as is required by section 40(5) of the Medical Act 1983 to found an appeal from the Committee. But in any event, their Lordships can see no substance in any of the points urged upon them by Mr. Ramdhun. The Committee was in the circumstances fully entitled to proceed with the hearing in the appellant's absence, all the relevant rules having been meticulously complied with. So far as rule 24(3) is concerned, it is plain on the evidence that the appellant did indeed fail to submit to a medical examination, and that no unreasonable conditions have been imposed by the Council for such examination. The Committee was fully entitled to proceed on the information contained in the letters from the doctors placed before them; and that evidence was sufficient to justify the determination which was reached.

Their Lordships will therefore humbly advise Her Majesty that the appeal should be dismissed. The appellant must pay the respondent's costs before their Lordships' Board.