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Re: GMC v Qureshi [2014] EWHC 775 Admin

Background

Dr Qureshi had been the subject of an interim order since 2012, when his registration had been made the subject of an order of suspension for a period of 18 months. There had been a number of reviews, the second of which, on 17 January 2013, had been the subject of an application to the Court by Dr Qureshi, which had been dismissed by Mr Justice Males on 30 April 2013.

The General Medical Council (GMC) made an application for an extension of the interim order under s41A(6) of the Medical Act 1983 which was considered by Mr Justice Jeremy Baker on 11 February 2014.

Application

Mr Justice Jeremy Baker set out details of the GMC's function in relation to interim orders (paragraph 4). He thereafter set out details of the history of the allegations against Dr Qureshi (paragraphs 5 to 32). He noted the application then before the Court was supported by a witness statement from the GMC which set out significant details of steps which had been taken by it during the course of the investigation of the various matters, and indicated that it was in the process of preparing to issue formal allegations against Dr Qureshi under Rule 7 (paragraph 33).

The Judge also noted that since the date of the witness statement on 24 January 2014 events had moved further forward as the Rule 7 letter had been issued on 7 February 2014. In the circumstances, he noted that the GMC had sought an extension to the interim order of 9 months.

Mr Justice Jeremy Baker confirmed that the application for an extension was opposed by Dr Qureshi and details of the objection were set out in a Skeleton Argument submitted on behalf of Dr Qureshi by his Counsel together with a bundle of evidence which included additional medical reports and statements (paragraphs 34 to 39).

The Judge confirmed it was his task to consider whether or not to extend the order and if so, for what period (paragraphs 40 to 43). He noted that he had had the benefit of seeing the manner in which the GMC was seeking to put its case (paragraph 44) which was, in addition to the two original matters arising out of incidents on 13 and 30 July 2012, the doctor's adverse mental health which was suggested in the medical evidence that Dr Qureshi suffered from a 'mild cognitive impairment' (paragraph 45).

In addition, the GMC was also making allegations against Dr Qureshi that he had failed to follow professional medical advice provided to him in 2012 that he ought to stop seeing patients and avoid driving, and that he continued to see patients and did not report any of the diagnoses or advice, either to the DVLA or the GMC, and that on one occasion he suggested, in 2011, he had stopped working when in fact he had not done so, such that he had misled those who were advising him at that time (paragraph 46).

The Judge confirmed it was clear when the matter was first being considered by GMC, the only matters which were being considered were the two incidents, and both matters, if established in due course, would be matters that would affect the public interest and so would establish the significant inappropriate behaviour by a medical doctor towards two of his patients (paragraph 46).

The Judge also confirmed that he was concerned about the protection of the public if the two matters were established, as it would be a cause for concern that there were two such incidents arising during the course of his consultation with the patients which clearly led, at the very least, to very significant disquiet and indeed emotional, if not physical harm, to those patients (paragraph 47).

The Judge was critical of the GMC in its conduct of the investigation (paragraph 49):

'It seems to me that there have been significant delays by the claimant in investigating those matters. There does not seem to me any reason why those matters should not have proceeded more swiftly. However, as is apparent, those are by no means the only issues which are for consideration by this court and by the claimant in due course, firstly, by the medical and case examiner and if necessary by the Fitness to Practise Panel. In that regard there have been changes in the nature of the way in which the evidence has evolved.... the matter first came to the attention of the claimants towards the end of 2012. At that stage it was being considered that the nature of the condition which it was suggested the defendant was suffering was a

progressive Alzheimer-type dementia. However, as matters have progressed, as is often the situation, matters have become more refined’.

Whilst the Judge confirmed that he was not there to determine the merits and arbitrate in relation to which of the medical opinions may ultimately be considered the correct diagnosis his task was to consider whether he was satisfied that it is necessary for the protection of the members of the public to extend the order.

He confirmed that it was clear on the medical evidence on both sides that Dr Qureshi did suffer from some cognitive impairment. The nature of it was now more refined and the real question will be in due course whether or not that, amongst other matters, sufficiently affects the doctor's ability to practise medicine as a general practitioner so as to disqualify him from practice.

The Judge acknowledged that this was a decision that he was not asked to make in considering as to whether or not he is satisfied that the criteria under Section 41A(1) of the Medical Act 1983 has been made out.

He went on to state (paragraph 52):

‘In my judgment it is of the essence of being a medical practitioner of whatever field and in particular the onerous role of a general practitioner that he has sufficient mental acuity in order to carry out that task appropriately and safely. The impact of somebody not having sufficient mental acuity to be able to make appropriate decisions dealing with a patient's affairs is a serious matter’.

He concluded that he was satisfied that in order to provide sufficient protection to members of the public who, on the evidence of the GMC's expert, may well be at risk it overrides the prejudice to Dr Qureshi and the continuation of the order.

Mr Justice Jeremy Baker confirmed that he considered that expedition was required. To ensure that such expedition is enforced and appropriately encouraged he extended the order for a period of 3 months (paragraphs 54 to 55). He confirmed that by the end of the period of time all parties would know precisely what the position is.

He concluded that this was a proportionate manner of dealing with the respective balance in the case by sufficiently protecting members of the public but also not extending the period beyond that which the court retained some control over ensuring expedition and limiting any further potential prejudice to Dr Qureshi (paragraph 57).

Salient Point

- Reminder that where there is a conflict of expert evidence and on one reading of that evidence there is a risk to the public, an extension to an interim order is likely to be made, maintained and extended.

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