

**PUBLIC RECORD****Dates:** 17/01/2024 - 18/01/2024**Medical Practitioner's name:** Dr Annamalaikani JEYAPRAGASH**GMC reference number:** 2398686**Primary medical qualification:** MB BS 1975 Madurai University**Type of case**  
New - Misconduct**Summary of outcome**  
Adjourned to new Tribunal**Tribunal:**

Legally Qualified Chair	Mrs Ruth Curtis
Lay Tribunal Member:	Mrs Valerie Blessington
Medical Tribunal Member:	Dr John Garner

Tribunal Clerks:	Mrs Anne Bhatti Ms Evelyn Kramer (pm 18 January 2024)
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**Attendance and Representation:**

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Amy Rollings, Counsel

**Attendance of Press / Public**

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

## Overarching Objective

Throughout the decision-making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

## Determination on Preliminary Matters - 18/01/2024

### Application for adjournment

1. On the first day of this MPTS hearing which had been listed for eight days, Dr Jeyapragash made an application to adjourn the hearing under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). This Rule states:

*'Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.'*

### Background

2. The allegation that has led to Dr Jeyapragash's hearing can be summarised as on one or more occasion between September 2020 and October 2021, during post-operative consultations with Patient A, Dr Jeyapragash inappropriately touched Patient A in that he held her down against an examination bed while she was vulnerable. It is further alleged that on another occasion Dr Jeyapragash attempted to prevent Patient A from speaking by holding his hand over her mouth. It is alleged that Dr Jeyapragash's conduct amounted to physically controlling behaviour.
3. Dr Jeyapragash sought an adjournment of the hearing on 12 January 2024. On 16 January 2024, an MPTS Case Manager refused Dr Jeyapragash's application for adjournment. Dr Jeyapragash subsequently made an application for adjournment to the Tribunal on day one of this hearing.

## Submissions

### On behalf of GMC

- Ms Amy Rollings, Counsel on behalf of GMC, submitted that the GMC oppose Dr Jeyapragash's application for adjournment. She submitted that Dr Jeyapragash had been unclear with regards to what had happened with his legal representative. She submitted that Mr B's email to Dr Jeyapragash's on 11 January 2024 which stated that he had finally received a short bundle and that payment needed to be made, contradicted the WhatsApp message received from Mr B which referred to his professional difficulties. GMC had made inquiries at day one of this hearing and Mr B had confirmed that he was booked for Dr Jeyapragash's hearing. It was in Mr B's diary and then Mr B had sought professional advice from his regulator. When Mr B received the bundle he thereafter, declined the brief at 3:31am on Friday, 12 January 2024. This was two working days before the hearing. Ms Rolling submitted that it was accepted that it would have been extremely difficult, given the late nature of that for Dr Jeyapragash to obtain alternative representation at that late stage.

### Dr Jeyapragash

- Dr Jeyapragash submitted that he started consulting Mr B, Counsel from December 2021. Mr B assisted him with XXX. For all these hearings Mr B was helping him prepare the documents, statements and gave him legal advice between December 2021 to December 2023 on this case. All the GMC and MPTS communications had been copied into Mr B. Dr Jeyapragash submitted that when he had initially asked Mr B for his assistance Mr B wanted to do it without going through his chambers on a direct access basis. Dr Jeyapragash was not given any engagement letter.
- Dr Jeyapragash submitted that suddenly on 11 January 2024, Mr B rang Dr Jeyapragash and said that he wanted the case to go through his chambers, so he was going to send Dr Jeyapragash a client engagement letter. Dr Jeyapragash agreed to go through the chambers and Dr Jeyapragash was sent a client engagement letter. Dr Jeyapragash submitted he was willing to send the money and complete the client engagement letter. Dr Jeyapragash explained that he received a text message from Mr B which said he had to consult his professional body and Mr B told Dr Jeyapragash not to fill in the client engagement letter and not to send the money. Mr B then followed this with news that he was not going to act for him. Dr Jeyapragash submitted that he was helpless and totally in shock.

7. Dr Jeyapragash wanted legal help for this case to avoid the stress if he had to self-represent. Dr Jeyapragash submitted that he needed three months to obtain good legal representation to assist him.

### Tribunal's approach

8. The Legally Qualified Chair ('LQC') advised that the Tribunal must balance the delay on the fairness of the proceedings taking into account all the circumstances including the length of the adjournment and inconvenience to witnesses. It must balance the protection of the public against the overriding objective to deal with cases fairly and justly.
9. The LQC referred to the case of *Nabili v GMC [2018] EWHC 3331 (Admin)* where it was clear that it will also be relevant to consider:
  - how long the practitioner has had to arrange representation;
  - the adequacy of any explanation given for the lateness in arranging representation; whether there is evidence that the lack of representation has arisen through no fault of the practitioner; and
  - whether the tribunal has confidence that an adjournment would result in the practitioner being represented and/or attending and participating in the hearing
10. The LQC further directed the Tribunal to the case of *Ramaswamy v GMC [2021] EWHC 1619 (Admin)*, where the practitioner's representative had been instructed for a significant period on a direct access basis and had appeared at previous hearings. In this case the High Court reiterated that fairness to the practitioner was a prime consideration when deciding whether to adjourn due to a representative's availability. In such instances, tribunals must take into account the complexity of the case and the representative's prior involvement.

### Tribunal's decision

11. The Tribunal acknowledged that an adjournment would impact all parties. It considered the inconvenience to the witnesses. It acknowledged that the events in question were in 2021 and that the witnesses had been waiting more than two years to be heard. The Tribunal were aware that some of the witnesses had travelled to the MPTS office in London to give evidence. The Tribunal recognised that an adjournment would cause further inconvenience and distress, in particular to Patient A. The Tribunal balanced this inconvenience against the fairness to the doctor and considered all the surrounding circumstances. The Tribunal noted that if they did not allow the adjournment, Dr

Jeyapragash would be cross-examining Patient A, which may place Patient A in a difficult position.

12. The Tribunal bore in mind that Mr B had been assisting Dr Jeyapragash since December 2021, XXX, the first listing telephone conference on 26<sup>th</sup> June 2023 and the pre-hearing meeting on 26 October 2023. Dr Jeyapragash had submitted he had been paying Mr B to represent him. The Tribunal further noted that Mr B had been assisting Dr Jeyapragash with his defence throughout and the Doctor had been sending Mr B numerous emails relating to his case. The Tribunal noted the email dated 11<sup>th</sup> January 2024 where fees had been agreed between Dr Jeyapragash and Mr B, for Mr B to represent Dr Jeyapragash for this hearing. The Tribunal were satisfied that Dr Jeyapragash had engaged Mr B to represent him at this hearing and that this engagement had been timely.
13. The Tribunal took into account that Dr Jeyapragash was informed by Mr B by WhatsApp message at 03.31am on Friday, 12 January 2024 that Mr B was unsure if he was able to represent him at this hearing. Mr Blater that day phoned Dr Jeyapragash and informed him that he would not be able to represent him. This was two working days before this hearing was due to commence on Wednesday, 17 January 2024. The Tribunal were satisfied that this was not a long enough period for Dr Jeyapragash to arrange alternative representation.
14. The Tribunal considered whether there was evidence that the lack of representation had arisen through no fault of Dr Jeyapragash. The Tribunal referred back to the WhatsApp message from Mr B which stated that he did not have time to prepare. Dr Jeyapragash submitted that this came as a shock to him. The Tribunal noted that Dr Jeyapragash had informed them that he had been sending emails to Mr B and asking him to assist him but that Mr B had not been responding or had been slow with his responses. The Tribunal were satisfied that Dr Jeyapragash was not at fault for the lack of representation, he had been relying on Mr B to prepare and present his defence.
15. The Tribunal took into account that upon finding out that he did not have legal representation, Dr Jeyapragash had used his time to try to seek an adjournment so that he could be given the time to arrange legal representation. He made an application at 2:33pm on 12 January 2024 for an adjournment, this was the same day as he had been notified by Mr B that he was no longer able to represent him. On 16 January 2024 a case manager from the MPTS refused Dr Jeyapragash's application. The Tribunal bore in mind that Dr Jeyapragash had been pro-active since finding out he was no longer represented by Mr B and found this to be a credit to him.

16. The Tribunal noted that Dr Jeyapragash was engaging with Mr B on a direct access basis. From Dr Jeyapragash's submission the Tribunal were clear that Dr Jeyapragash required a lot of help and support from Mr B. Therefore, the Tribunal determined that it was unfair to expect Dr Jeyapragash to represent himself going forward without an opportunity to obtain legal representation.
17. The Tribunal was of the view that Dr Jeyapragash's request for a three month adjournment was reasonable and that would allow him the time to obtain legal representation.
18. The Tribunal determined that Dr Jeyapragash would use this time to seek representation so that he was represented at a future hearing. The Tribunal found that it was fair and reasonable for Dr Jeyapragash to have time to choose his own legal representative given the seriousness of the allegations against him.
19. The Tribunal concluded to grant Dr Jeyapragash's application for adjournment for a period of three months. The hearing will be re-listed by MPTS and a fresh notice of hearing will be provided in due course.