

# MEDICAL ETHICS

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## ELECTIONS : THE TRUE STORY

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### *The Maharashtra Medical Council*

The Maharashtra Medical Council (MMC) is a statutory body set up by the Government under the Maharashtra Medical Council Act 1956 for carrying out three principal functions : to maintain a register of doctors practising modern medicine in Maharashtra, to discipline erring doctors and to inspect and licence medical colleges in the state.

The MMC has an Executive Council of twenty-three members, of whom nine are elected directly by registered medical practitioners in the state. Six are elected - one each from the six Universities in the State. Five are nominated by the State Government. Two ex-officio nominees of the Medical Education Department, Government of Maharashtra and one representative of the College of Physicians and Surgeons of Maharashtra are also included.

The MMC is generally accepted as one of the better councils in the country under the parent body - the Medical Council of India (MCI) - partly because of the economic and social progress in Maharashtra and largely because of the high traditions and standards set up by the founders of modern medicine in Bombay, Pune, Nagpur and other areas in the state.

Elections to the MMC were last held in 1985. Despite a legally permitted life of five years, no fresh elections were held in 1990 necessitating a Supreme Court order to hold the elections by the end of January 1993.

In the last decade or so, there have been several complaints against the functioning of the MMC. These range from not updating the register of doctors to inefficient disposal of accusations by patients or their families of negligent behaviour by doctors.

The medical profession, the press and public at large gradually came to accept that the MMC is a defunct body bogged down by its own controversies, inefficient in taking action to stem the various malpractices within the profession. These impressions were strengthened when the profession was faced with ethical issues like amniocentesis for sex determination and donations of kidneys by unrelated persons for a consideration - a form of exploitation of the very poor. The profound silence of the Medical Council in issuing guidelines or orders was deafening!

### *Elections - 1992*

Elections to the MMC were announced in September 1992. There were three groups of six to nine persons, headed by sitting members Dr. S.N.Deshmukh, Dr. Sudhakar Deshpande and Dr. Jaswant Mody respectively jousting with each other for a place in the corridors of power.

We decided to form a fourth group consisting of consumer activists and other doctors. The Forum for Medical Ethics (FME) is led by Dr. Arun Bal.

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The MMC has adopted the system of voting by postal ballot. The voter has to put his signature at an assigned spot on the outer envelope which contains the address of the Returning Officer of the election. This envelope has to be sealed and sent, as the rules to the Act say 'by post or other means'.

### *Electoral malpractices*

As the election unfolded, we became aware that several candidates were collecting blank ballot papers from the voters. This, it appeared, was standard practice over the past two decades. Doctors who were not interested in the 'politics of elections' allegedly willingly gave away their ballot papers with signatures on the outer envelopes to the candidates or their representatives.

It never struck either the doctor who gave away the ballot papers in this fashion or the person who collected such ballots that there was any impropriety in this act. This blatant act of 'vote collection' was further justified by two group leaders - Dr. S. N. Deshmukh and Dr. Jaswant Mody - in a public meeting at the I. M. A. Hall at Haji Ali in Bombay. Dr. Deshmukh contended that 'there was tremendous lethargy in the medical profession and a large section of doctors would not vote unless such methods were resorted to'.

Confronted with the argument that this method of capturing votes was similar to the notorious practice of 'booth capturing' in Bihar, U. P. and other states, the doctors concerned were at a loss for an answer. It is reliably learnt that after collecting thousands of blank ballot papers the leaders of each group (except FME) met privately and, shared available votes between themselves.

Vote-capturing and vote-sharing were the proverbial tip of the iceberg in the many malpractices which were enacted during this election. Many doctors in Pune, Nagpur and other parts of Maharashtra never received their ballot papers by post. Dr. B. G. Mulay of Pune received an open envelope on which the names of four candidates were

already marked. He immediately proceeded to make a panchnama and registered the case in a Civil Court. During the counting, it came to light that many candidates who were dead or abroad had 'voted' at the election.

Over ten thousand votes were delivered to the Returning Officer by some persons on the last day of receipt of ballot papers. Members of the FME, who received notice of this occurrence, wrote to the Returning Officer pointing out that mass delivery of votes was an electoral malpractice and such votes should not be accepted or kept aside for separate counting. They were blandly told by the Returning Officer that there was no provision in the Rules for such action on his part. An independent witness - a reporter from the *Times of India* - who happened to be at the office of the Returning Officer, saw a person come with a huge suitcase full of ballot papers. When she asked the Returning Officer why he was accepting these obviously doctored votes, she received the same answer.

The deceit in this election did not stop at this. Many voters posted the envelope without a postage stamp under the impression that the postage would be paid for by the addressee - MMC. The Post Office received about 2500 such envelopes which it took to the Returning Officer of the Elections, asking him to pay Rs. 2 per envelope, as per the standard practice for envelopes on which postage was due. The Returning Officer turned down this request, saying he had no funds for this activity. One of the candidates surreptitiously went to the Post Office, paid the required sum to the concerned clerk and ensured that these votes found their way to the Returning Officer in due course.

When we objected to this malpractice, the Returning Officer turned a deaf ear to our complaints.

The role of the Returning Officer in this election is steeped in controversy. Several of his actions have left him open to charges of dereliction of duty and an undue interest in protecting malpractices.

On the very first day of counting of votes, FME members got the signatures on 14 outer envelopes checked. (MMC has a specimen copy of the signatures of all the voters in its possession.) 3 of these 14 envelopes bore signatures that did not tally with those on record - indicating bogus voting to the extent of 22 percent in this sample! The Returning Officer now refused to carry on the random check of signatures on envelopes drawn out on other days on the ground that rules did not provide for such a check.

When it was pointed out that the very fact that the rules insisted that every voter had to inscribe his signature on the envelope, legally implying that a scrutiny-could or should be enforced, the Returning Officer gave a statement in writing that he would not proceed with such scrutiny.

At the end of a highly tarnished election, the results were no surprise. All five sitting members were re-elected with large margins. Members of the FME did not win a single seat.

### ***Disturbing questions***

There are several questions which the format and conduct of this election have thrown up.

How much faith can a lay person now place on a medical council elected by such dubious means? What justice can such a council give to the lay public? Why do doctors part with blank ballot papers and allow electoral malpractices on such a wide scale ?

Another important question troubles members of the public and doctors: Why did some doctors incur great expense and take great pains for election to this council? Does the fact that there are ten private medical colleges awaiting recognition in Maharashtra have anything to do with it? The Amravati Medical College was at first refused a licence after a three-member team of the MMC deemed it 'grossly inadequate.' Subsequently, a second committee was sent to review the college and to the surprise of one and all, found everything in perfect order. How and why this happened can easily be imagined. Based on this latter report, the college received a licence!

The FME has filed a complaint-cum-petition with the Minister for Public Health and Medical Education who is the Appropriate Authority for such appeals under the Act.

A separate complaint has been filed against the Registrar of the MMC who was the Returning Officer for the elections and is a Class I Government Officer, for abetment of these offences and dereliction of duty. It promises to be a long and tough fight. Will those interested in restoring ethics in medicine join this fight?

### ***Some suggestions for the future***

If the MMC is a body despised and discredited by doctors and lay persons alike, the fault lies, to a large extent, on those who fail in their duty. When you decide not to exercise your franchise and, instead, hand your nine votes to someone else, you forego your choice to elect merited individuals to the MMC. In doing so, you strengthen the hands of individuals who see nothing wrong in the several malpractices listed above and, in turn,, reduce the MMC to a mockery.

Those amongst you who are inspired by the will to do the right thing by your patients and restore respect for the profession should strive to compete for election to the MMC. If this is not possible, please do all you can to enable those with unchallenged integrity to sit on the MMC.

An MMC full of honest and scrupulous individuals will strengthen the medical profession. It will weed out unscrupulous elements that bring discredit to it. It will thus help the many who practice ethically or wish to do so.

### ***Addendum:***

As we go to press, we have no action on the part of the government on our complaint-cum-petition. We have therefore approached the Lok Ayukta with a plea that the government be forced to respond within a definite period. We await the outcome.