



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO.: 196/01/86D

IN THE MATTER of the **MEDICAL**
PRACTITIONERS ACT 1995

AND

IN THE MATTER of disciplinary proceedings against
BODIABADUGE CAMILLUS
LEONARD ANNESLEY
PERERA medical practitioner of
Melbourne, Australia

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on Thursday 14 March 2002

PRESENT: Ms P Kapua - Chair
Mr P Budden, Dr L Ding, Dr F McGrath, Dr L F Wilson (members)

APPEARANCES: Ms G Fraser - Secretary
(for first part of call only)

COUNSEL: Ms M McDowell, Director of Proceedings
Mr H Waalkens for respondent

Decision on Application for Interim Name Suppression

1. The Tribunal has received an application for interim name suppression of the respondent, Dr Perera who is facing a charge alleging professional misconduct. The Tribunal has before it the application and an affidavit from the respondent, submissions in response from the Director of Proceedings, a further memorandum from the Director of Proceedings and submissions in response on behalf of the respondent. Both counsel for the respondent and the Director of Proceedings were agreed that the decision could be made on the papers without the need for them to be present for the telephone conference.
2. The specific grounds for making this application are:
 - (a) That the respondent denies the particulars of the charge and publicity will reflect harshly upon him;
 - (b) The publicity will harm his family, in particular his cousin Dr George Perera, a general practitioner of Whangarei whose practice may be adversely affected, and his younger son who suffers from an anxiety disorder.
3. At the outset it is important to stress that there is a general principle in s.106 of the Act that proceedings before the Tribunal will be conducted in an open forum and therefore there needs to be good reason for granting name suppression. The Tribunal has consistently taken this approach and the legislation is clear that transparent and open proceedings is a matter of public interest: see *W v CAC*, (MA 122-95, 9/7/98 (DC)); and *P v MPDT*, (AP 2490/97, 18/6/97 (DC)) and *Fahey v MPDT et al* (High Court, Wellington, CP 274/99, 11 February 2000). The fact that Dr Perera denies the charge and that any publicity may adversely affect his practice is a ground that would be true of a majority of medical practitioners facing charges under the Medical Practitioners Act. Given the

direction in section 106 such a basis for interim name suppression cannot be supported and accordingly is declined on that basis.

4. The Tribunal has viewed seriously the contention that members of Dr Perera's family may be adversely affected by publicity relating to the charge. We have assumed for the purposes of this application, and in the absence of any submission to the contrary by Dr Perera's counsel, that the respondent's son is residing with him in Melbourne. To that end the Tribunal does not consider that there is a great risk that information will be disseminated freely in Melbourne and that Dr Perera is able to protect his son from any information if that is his wish.
5. With regard to the respondent's cousin in Whangarei, apart from the obvious differences in terms of first name and practice area, the Tribunal has been advised by the Director of Proceedings that there has already been extensive publicity about this matter and that the matter is already very much in the public domain. That being the case any issues regarding confusion with Dr Perera's cousin will have already arisen and there is no basis now for granting interim name suppression.
6. In conclusion, the Tribunal does not accept that there are grounds for granting interim name suppression in this case and accordingly the application for interim name suppression is declined.
7. The Tribunal however makes an interim order prohibiting publication of Dr Perera's name for 7 days from the date of this decision to enable him to take advice regarding his right to appeal, and to obtain interim orders from the District Court pending the hearing of any such appeal.

DATED at Auckland this 11th day of April 2002.

Prue Kapua

DEPUTY CHAIR