

*Privy Council Appeal No. 15 of 1994*

**Dr. Subhash Chandra Malliwal**

*Appellant*

*v.*

**The General Medical Council**

*Respondent*

FROM

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

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ORAL JUDGMENT OF THE LORDS OF THE  
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL,  
DELIVERED THE 19TH OCTOBER 1994  
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*Present at the hearing:-*

LORD KEITH OF KINKEL  
LORD MUSTILL  
LORD SLYNN OF HADLEY

*[Delivered by Lord Keith of Kinkel]*  
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The appellant, Dr. Malliwal, appeals against a determination of the Health Committee of the General Medical Council given on 23rd February 1994. By that determination the Committee decided that the appellant's fitness to practise was seriously impaired and they directed that his registration be suspended for a further period of twelve months.

The question of the appellant's fitness to practise had been considered by the Health Committee on many occasions going back several years; on two of these occasions the appellant appealed to Her Majesty in Council but his appeals were dismissed. The principal ground of complaint contained in the appellant's present case is that the Committee received the reports of two practitioners relating to his condition which had not been served upon the appellant along with the notice of the referral 28 days before the hearing. The reports had, however, been received by the appellant 13 days before the hearing and the authors of the reports, who were present at the proceedings before the Committee, gave evidence and the appellant had the opportunity to cross-examine them and did so.

Under rule 19(4) of the General Medical Council Health Committee (Procedure) Rules 1987 the Committee had a discretion to allow these reports to be adduced, notwithstanding they had not been supplied to the appellant along with the notice of referral 28 days before the hearing and notwithstanding that he did not consent. The Committee, after consultation with the legal assessor, decided that the reports should be admitted. The question of admitting them was entirely within the discretion of the Committee and their Lordships see no ground upon which it could be held that the Committee's discretion was not properly exercised. There is no substance in this particular point.

In general the appellant has failed to show that there is any point in law which would form the proper basis of an appeal. Under the Rules an appeal to Her Majesty in Council from a decision of the Health Committee lies solely on a point of law. The only possible point of law which might arise is that there was no evidence before the Committee on which they could properly arrive at the decision which they did. However, it is quite apparent that, although there was evidence in favour of Dr. Malliwal as well as evidence against him, there certainly was sufficient evidence to enable the Committee to arrive at the conclusion which they did.

Their Lordships will therefore humbly advise Her Majesty that the appeal should be dismissed. There will be no order for costs.