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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) NO. 3082/2015

PARA MEDICAL STAFF WELFARE
ASSOCIATION OF MCD

..... Petitioner

Through: Mr. B.N. Sarangi, Adv.

Versus

NORTH DELHI MUNICIPAL CORPORATION (NDMC)
& ORS

..... Respondents

Through: Ms. Monika Arora, Adv. for R-1 to 3.
Mr. R.K. Yadav, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

02.09.2015

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1. The petition seeks mandamus to the respondents, (i) North Delhi Municipal Corporation (NrDMC); (ii) Medical Superintendent, Hindu Rao Hospital; (iii) Assistant Labour Welfare Officer, NrDMC; and, (iv) Govt. of NCT of Delhi (GNCTD) to grant recognition to the petitioner so that the petitioner can smoothly operate for the welfare of its members and so that the rights of the members of the petitioner and the patients visiting the Hindu Rao Hospital are not curtailed. A direction is also sought to the respondent No.2 Medical Superintendent, Hindu Rao Hospital to recall the order dated 30th April, 2013 cancelling the allotment of an office room allotted to the

petitioner vide another office order of the same date i.e. 30th April, 2013.

2. Notice of the petition was issued and was accepted by the counsel for the respondent No.1 NrDMC appearing on advance notice. Though the petitioner did not take steps for service of the notice on the respondents No.2&3 but finding that respondent No.2 Medical Superintendent, Hindu Rao Hospital is also to be represented by the respondent No.1 NrDMC which is monitoring and operating the said Hospital and the respondent No.3 Assistant Labour Welfare Officer, NrDMC, also is to be represented by the counsel for the respondent No.1 NrDMC and further finding that the respondent No.4 GNCTD has no role in the matter, the counsels have been heard.

3. The counsel for the respondents No.1 to 3 NrDMC has drawn attention to pages 54, 58 and 151 of the paper book.

4. Page 54 is an office order dated 30th April, 2013 of the respondent No.2 Medical Superintendent, Hindu Rao Hospital allotting a room, situated between “Hospital Employees Union” and “New Doctors duty room” to the “Association of Para Medical Technical Staff Welfare Association”. The counsel for the petitioner on enquiry states that erroneously, in the

memorandum of parties, the name of the petitioner has been mentioned as “Para Medical Staff Welfare Association” though the name of the petitioner, as borne out from the Certificate of Registration also, is “Para Medical Technical Staff Welfare Association”. It is thus contended that it was the petitioner which was allotted the said room.

5. Page 58 is another office order dated 30th April, 2013 of the respondent No.2 Medical Superintendent, Hindu Rao Hospital cancelling the allotment of the room aforesaid to the petitioner “for the time being” upon learning that the petitioner Association is not recognized / registered by NrDMC.

6. Page 151 is another office notice dated 3rd October, 2013 of the respondent No.2 Medical Superintendent, Hindu Rao Hospital *inter alia* to the effect that the petitioner, subject to handing over peaceful possession of the room earlier allotted and allotment of which was cancelled and subject to withdrawing civil suit filed by the petitioner in this regard, is eligible for recognition as an association by the NrDMC / Hindu Rao Hospital.

7. The counsel for the respondents No.1 to 3 NrDMC thus states that subject to the petitioner withdrawing the civil suit filed by it with respect to

the said room and subject to the petitioner handing over possession of the room, the NrDMC is willing to consider granting / recognition of the petitioner Association.

8. The counsel for the petitioner states that civil suit being Suit No.686/2014 bearing Unique ID Number:02401C0356222013 of the Court of Sh. Kishore Kumar, Civil Judge-12 (Central), Tis Hazari Courts, Delhi had already been decreed on 30th July, 2015. A copy of the judgment in the said suit is handed over in the Court and is taken on record. A perusal thereof shows that the Medical Superintendent, Hindu Rao Hospital impleaded as the defendant herein has been restrained by a decree of permanent injunction from dispossessing the petitioner from the room in question, without following the due process of law.

9. The counsel for the respondents No.1 to 3 NrDMC on enquiry states that though in the office noting dated 3rd October, 2013 supra, a condition was imposed on the petitioner to deliver back the possession of the room but upon the petitioner being recognized, would be eligible for allotment of a room.

10. In the aforesaid scenario, the controversy is in a narrow compass.

11. Though the respondents No.1 to 3 NrDMC had earlier allotted room aforesaid to the petitioner but cancelled the said allotment upon realising that the petitioner is not a recognised Association. The respondents No.1 to 3 NrDMC have since found the petitioner Association eligible for recognition. However, now, the failure of the petitioner Association to restore possession of the room, allotment of which was cancelled and pendency of litigation initiated by the petitioner in this regard, are coming in the way of the said recognition. The respondents No.1 to 3 NrDMC also admits that the petitioner Association, post recognition, would be eligible for allotment of a room.

12. While the petitioner wants first to be recognised and allotment of room aforesaid in its favour to be regularised, the respondents No.1 to 3 NrDMC want the petitioner to first surrender the room and then have itself recognised and again seek allotment of room.

13. Such issues ought not to be allowed to clog the judicial system. The powers of this Court under Article 226 of the Constitution of India enable this Court to instantly resolve such issues.

14. Accordingly, this petition is disposed of, with the following directions:

(I) The petitioner to, within two weeks hereof, make an application to the respondents No.1 to 3 NrDMC or to such of them as may be required to be made, seeking recognition.

(II) Subject to the petitioner fulfilling all the formalities / parameters required to be completed therefor, the respondents No.1 to 3 NrDMC shall, within one month of receipt of application, either grant recognition to the petitioner Association or if do not find the petitioner entitled to recognition, reject the application giving reasons therefor.

(III) In the event of the petitioner being recognized, the petitioner shall be entitled to immediately apply for regularization of the allotment of the room already in its possession in favour of the petitioner and the said request shall also be considered within a reasonable time.

(IV) If the petitioner is not recognised, or though recognised, not allotted any room, the petitioner would have remedies, if any, available in law thereagainst.

(V) Similarly, if the petitioner is not recognised, or though

recognised, not allotted the room aforesaid, the respondents shall be entitled to take back the possession of the room by following the due process of law.

(VI) The aforesaid would not come in the way of the petitioner being allotted any other room / space instead of the room now in its possession.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 02, 2015

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