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

+ LPA 187/2016 & CM No.10289/2016 (*for directions*)

J B INSTITUTE OF NURSING & RESEARCH Appellant

Through: Mr. Mayank Manish with

Mr. Ravi Kant, Advs.

Versus

INDIAN NURSING COUNCIL Respondent

Through: Mr. V.S.R. Krishna, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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28.03.2016

1. By the order under appeal, W.P.(C) No.1058/2016 filed by the appellant herein was dismissed by the learned Single Judge holding that this Court is not the convenient forum to hear the case.
2. We have heard the learned counsel for both the parties.
3. It is no doubt true that the Appellant/Petitioner institution is based in Gwalior and the students have been admitted in Gwalior. However, the Respondent/Indian Nursing Council, which passed the impugned order, is located in Delhi and the writ petition has been filed challenging the action of the Indian Nursing Council in declining to grant permission for General Nursing and Midwifery programme as well as Auxiliary Midwifery Nursing programme for the Academic Year 2015-16.
4. It is no doubt true that *forum conveniens* is one of the factors which the Court may take into consideration for deciding the maintainability of the petition in that Court. However, for determination of *forum conveniens*, it is essential for the Court to scrutinize the nature of cause of action in the light of the facts and circumstances of each case. This aspect has been clarified in the

decision of the larger Bench itself in *Sterling Agro Industries Ltd. v. Union of India*, **181 (2011) DLT 658**.

5. So far as the present case is concerned, having regard to the nature of the order impugned and the controversy involved in the writ petition, it appears to us that it is not a matter for invoking the doctrine of *forum conveniens*. We also found that no such objection was raised by the respondent.

6. In response to the notice issued by us, appearance has been entered on behalf of the Respondent/Indian Nursing Council and we have heard the learned counsel for the respondent. Even before us no case could be made out by the respondent to show that it is not convenient for the Indian Nursing Council to contest the matter in this Court. As already mentioned above, what is challenged in the writ petition is the rejection of permission for Nursing Programmes for the Academic Year 2015-16. Admittedly, the Indian Nursing Council is located in Delhi. We are, therefore, unable to hold that that this Court is not the convenient forum merely on the ground that the petitioner institution is based in Gwalior

7. For the aforesaid reasons, the order under appeal is set aside and the learned Single Judge is requested to consider the petition on merits and pass an appropriate order in accordance with law.

8. Appeal is accordingly disposed of.

9. Re-notify W.P.(C) No.1058/2016 before the roster Bench on 25.04.2016.

CHIEF JUSTICE

MARCH 28, 2016/kks

JAYANT NATH, J