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

+ LPA 616/2016

APURV AGARWAL

..... Appellant

Through Mr.M.K. Bhardwaj, Mr.Shriambhra
Kashyap and Mr.K.C. Aggarwal,
Advocates along with appellant in
person

versus

UNION OF INDIA & ORS.

..... Respondent

Through Mr.Rishi Kapoor, Advocate for R-
2/NBCC
Mr.Jasmeet Singh, CGSC for
respondent Nos. 1,3 & 4

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **07.11.2016**

CM No. 41126/2016 (exemption)

Allowed subject to just exceptions.

Application stands disposed of.

LPA 616/2016 & CM No. 41125/2016(stay)

1. We are not inclined to interfere with the impugned order dated 7th October, 2016 whereby CM No.37594/2016 has been dismissed.
2. It is apparent that the appellant had belatedly approached the respondent/National Building Construction Corporation of India for forwarding his application for the post of Director (FA) and the Director (Law) in the Competition Commission of India(CCI) through proper channel.
3. The advertisement in the said post was issued by Office

Memorandum dated 10th August, 2016 and the last date for receipt of applications through proper channel was 22nd September, 2016. The appellant had moved the application before the National Building Construction Corporation of India on 19th September, 2016 which was rejected on 20th September, 2016.

4. The writ petition and the said application had come up for hearing before the Single Judge on 7th October, 2016. Obviously, the prayer could not have been granted as the last date for submission of application was 22nd September, 2016.

5. Noticeably the appellant did not implead the Competition Commission of India as a party to the writ petition.

6. It will not be correct and proper to issue any direction in this appeal when Competition Commission of India is not a party.

7. At this stage, learned counsel for the appellant submits that he had also made a prayer for stay of the circular/notification dated 14th March, 2016 which stipulates that National Building Construction Corporation of India would not issue No Objection certificate or forward any application till the employee has worked for five years.

8. Learned counsel appearing for National Building Construction Corporation of India states that this issue has not been decided by the impugned order and in case the appellant so wants, he can file an application praying for the said relief. However, the respondent does not accept or admit that prayer. Any such claim would be contested. Learned counsel further submits that this issue is raised and is pending in another writ petition.

9. With the clarification that we have not decided the second

aspect and the appellant is at liberty to raise the said plea and seek interim order, the appeal and the application for stay is dismissed.

10. After the aforesaid order was dictated, Mr.M.K.Bhardwaj, Advocate for the appellant states that as per the information gathered, National Building Construction Corporation of India is a notified Corporation and, therefore, Administrative Tribunals Act, 1985 would be applicable. This would be an additional ground for not interfering.

11. It will be open to the appellant to move an appropriate application before the Single Judge for withdrawal of the writ petition.

12. *Dasti.*

SANJIV KHANNA, J

SUNITA GUPTA, J

NOVEMBER 07, 2016

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