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

+ W.P.(C) No.6006/2015

DR.RAJ ARYA

..... Petitioner

Through: Mr. Rahul Sharma, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Naushad Ahmed Khan, ASC with  
Ms. Astha Nigam, Adv. for R-1&2.

Mr. P.P. Khurana, Sr. Adv. with Mr.  
Praveen Khattar, Adv. for R-3

Mr. T. Singhdev, Ms. Biakthansangi  
and Mr. Tarun Verma, Adv. for R-4.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**04.04.2016**

1. This order is in continuation of the earlier order dated 23<sup>rd</sup> March, 2016.
2. The counsel for the petitioner in pursuance thereto has handed over copies of the Dental Council (Election) Regulations, 1952.
3. The senior counsel for the respondent no.3 Delhi Dental Council (DDC) contends that the arguments raised by the counsel for the petitioner and recorded and dealt with in the order dated 23<sup>rd</sup> March, 2016 is not the prayer in the petition. It is argued that the petitioner in the petition has impugned the election held pursuant to Notification dated 6<sup>th</sup> March, 2014 which is the Notification for election under Section 21 (a) & (b) of the Dentist Act, 1948 and not qua the election under Section 3 (a) of the Act.
4. The counsel for the petitioner states that the petitioner, in the petition has challenged the election held under Section 21 (a) & (b) also on the  
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ground of secrecy and confidentiality as required to be maintained with respect thereto having not been maintained and other procedural irregularities in conduct thereof.

5. The senior counsel for the respondent no.3 DDC also points out that the elected candidates have not been impleaded.

6. The counsel for the petitioner on enquiry whether there is any procedure prescribed in the Regulations aforesaid or in the Dental Council (Delhi State) Rules, 1951 for resolving the disputes relating to the elections has drawn attention to Rule 19 which is as under:-

*“19, (1) Before setting aside an election under Section 26 the Government shall give an opportunity to all the parties concerned to show cause why the election should not be set aside.*

*(2) A decision under Section 26 may be given on the inquiry and report of any person appointed by the Government in that behalf.”*

7. Section 26 of the Dentists Act, 1948 is as under and the elections under Section 21 (a) & (b) are covered thereby:-

*“26. Mode of elections. – Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the [State] government whose decision shall be final.”*

8. It has thus been enquired from the counsel for the petitioner, that statute having provided for a mode for resolution of election dispute, how this petition is maintainable.

9. The counsel for the petitioner states that the petitioner had made a representation to the Delhi Government.

10. The counsel for the Delhi Government states that on such representation, a speaking order has been passed, not finding any merit in the dispute raised.

11. The counsel for the petitioner on enquiry as to how in the absence of any challenge to the said speaking order, this Court in writ jurisdiction can set aside the election, order of the State Government on the dispute with respect where to has been statutorily made final, states that the need for that relief was not felt since the petitioner has challenged the Notification itself. However he is unable to state as to what is wrong with the Notification dated 6<sup>th</sup> March, 2014 of the Delhi Government to the extent of election under Section 21 (a) & (b).

12. The senior counsel for the respondent no.3 DDC points out that the petitioner in the petition has challenged the speaking order as well.

13. I have perused the speaking order dated 15<sup>th</sup> May, 2015 and do not find any case for interference therewith to have been made out.

14. As far as the challenge on the ground of there being no Notification for election under Section 3(a), the Regulations supra provide for the Notification thereunder and appointment of Returning Officer therefor also to be made by the State Government only, in comparison to elections under Section 3(c) of the Act, Notification and appointment of Returning Officer wherefor has to be made by the Central Government.

15. The senior counsel for the respondent no.3 DDC on enquiry whether in the past there has been a single Notification for elections under Section 21 (a) & (b) as well as under Section 3(a) or separate Notifications, has drawn attention to the Notification dated 8<sup>th</sup> June, 2007 for the last election held in

the year 2007 and which shows a composite Notification to have been issued.

16. It appears that while issuing the Notification dated 6<sup>th</sup> March, 2014, the mention of election under Section 3(a) inadvertently remained. However GNCTD in the speaking order supra aforesaid has with respect to the said grievance found that the elections under Section 3(a) were held by the Returning Officer on specific request of the respondent no.3 DDC.

17. The counsel for the petitioner contends that without a Notification no elections could have been held by the Returning Officer under Section 3(a) even if the respondent no.3 DDC had requested for the same. However on enquiry as to what prejudice has been caused thereby and what is the cause of action to the petitioner therefor, all that he is able to state is that several persons did not participate in the said elections being of the view that the said elections will be set aside and are without jurisdiction.

18. That however still does not furnish any cause of action to the petitioner for setting aside of the election so held, that too without impleading the persons elected.

19. I am therefore of the view that no case for interference or for exercise of power of juridical review in respect of the election held is made out.

20. The petition is dismissed with costs of Rs.5,000/- to the Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund, New Delhi to be deposited within two weeks of today.

21. On personal request of the counsel that this is his first election petition the cost is waived.

**RAJIV SAHAI ENDLAW, J**

**APRIL 04, 2016/‘pp’**

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