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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11720/2016

ATUL KUMAR MITTAL

..... Petitioner

Through: Mr. Pradeep Kant, Sr. Advocate with
Mr. Divyanshu Sahay, Advocate.

versus

INDIAN INSTITUTE OF TECHNOLOGY DELHI

THR ITS REGISTRAR AND ANR

..... Respondents

Through: Mr. Arjun Mitra and Ms. Jaskaran
Kaur, Advocates for IIT, Delhi/ R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% 16.12.2016

C.M. Appl. No. 46133/2016 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11720/2016 and C.M. Appl. No. 46132/2016 (for stay)

1. This writ petition was argued at length. On behalf of the petitioner, it was argued that the impugned order passed by the Board of Governors of the employer/Indian Institute of Technology, Delhi, was lacking in jurisdiction being violative of the provisions of

Sections 4 and 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Other arguments were also urged on merits with respect to the report of the inquiry officer being unsustainable in the facts of the present case. That when the employer/respondent no. 1 was called upon to reply, learned counsel for the employer has brought to the attention of this Court a statutory provision being Rule/Statute 13(10) framed pursuant to the provision of Section 26 of the Indian Institute of Technology Act, 1961, whereby against an order passed by the disciplinary authority, an appeal lies to the visitor of the University. It was argued, and *prima facie* rightly, that once there is a provision of statutory appeal, and that option has not been exercised, the order of the disciplinary authority would have a colour of *res judicata*.

2. Without opining, in any manner, to the merits of the matter one way or the other, for or against any of the parties to the present proceedings, at this stage, learned senior counsel for the petitioner, on instructions from the petitioner who is present in person, states that the present writ petition is not pressed because the petitioner will

exercise his right of statutory appeal under Rule/Statute 13(10) Indian Institute of Technology Act, 1961, as stated above.

3. In view of the above, this writ petition is disposed of as not pressed with liberty to the petitioner to exercise his right of appeal under Rule/Statute 13(10) of the rules framed under Indian Institute of Technology Act.

VALMIKI J. MEHTA, J

DECEMBER 16, 2016

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