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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 934/2015 & CM Nos. 31792-31793/2015 & CM No. 537/2016
DR RATNAKAR SAHOO & ORS Appellants

Through: Mr. Satyanarayan, Advocate.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY & ORS
..... Respondents

Through: Ms. Anita Sahani, Advocate for R-1.
Mr. T. Singhdev, Advocate alongwith
Mr. Sanjay Kumar, Advocate for R-2
(MCD).
Mr. Mohinder J.S. Rupal, Advocate
for University of Delhi/R-4.
Mr. R. Venkataraman, Advocate
alongwith Mr. Adesh Kumar,
Advocate for R-5.
Mr. Ruchir Mishra, Advocate
alongwith Mr. Mukesh Kr, Advocate
for UOI.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **24.02.2016**

1. The appellants' grievance in these proceedings is that the learned Single Judge fell into error in directing the respondents to grant the relief claimed in the writ petition before him, i.e., equation of teaching designation to the writ petitioners. It is contended that the

learned Single Judge overlooked the text of Regulation 11(1)(d) which were introduced with effect from 15.03.2005 to the Post Graduate medical Regulation framed by the Medical Council of India in the year 2000. According to the appellants (who were not impleaded as party in the writ petition), the respondents are ineligible given the fact that they were working in Medical Colleges, but holding non-teaching designations and discharging duties commensurate with such designations. Appellants' counsel also submits that by the subsequent amendment of 2009, the operation of the regulations were further restricted to the extent that equation to designation amongst eligible candidates could be carried out but only to the extent of teaching requirement in any medical institution and not beyond that. Learned counsel also relied upon resolutions of the Medical Council of India dated 24.05.2011 and subsequent ones and stated that contrary to these for the first time on 26.10.2015, the Medical Council of India wrongly advised that respondent/writ petitioners were eligible for the benefit claimed by them. Counsel for the officials, i.e., the Medical Council of India, the IP University and the writ petitioners submit that the question as to the legality and validity of the amendment to the MCI Regulations is pending in W.P.(C) No. 7049/2005 and W.P.(C) No.2020/2015, both of which before different Division Benches. It is pointed out that in those proceedings there is no stay on the MCI's decision. The respondents also point out that after the 2005 amendments' coming into force, two colleges, i.e, Vardhman Mahavir Medical College and the PGIMER were declared as colleges attached to two hospitals, i.e., Safdarjung

Hospital and Ram Manohar Lohia Hospital. In these circumstances, the writ petitioners who had worked for more than a decade and in some cases up to 15 years as specialists in their fields and after having completed Post Graduate Medical Education in various disciplines were clearly entitled to be treated as eligible under Regulation 11(1)(d). It is submitted that keeping these developments in mind, the MCI issued the regulation on 26.10.2015.

2. We notice, at the outset, that neither have the appellants here challenged the amendment to the notification dated 15.03.2005 nor have they challenged the latest clarification dated 26.10.2015. Given that in all other cases a stay of the notification and consequential action were declined, the benefit granted to the writ petitioner/respondents cannot be denied consistent with the previous orders of the Court. At this stage, it would be sufficient to observe that disposal of these appeals would not in any way prejudice the rights of the parties to urge whatever is open to them in the two pending writ petitions which concern a larger issue, i.e., the validity of the 2005 Amendments and the manner of their implementation. All rights of the parties, including the present appellants' right to intervene in those proceedings are accordingly reserved.

The appeal is accordingly dismissed.

Order *dasti*.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

FEBRUARY 24, 2016/bg