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

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Judgment delivered on: 01.02.2017

+ W.P.(C) 718/2017

DR. SHABNAM KHARE

..... Petitioner

versus

MEDICAL COUNCIL OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. A.K. Behera and Mr. Aman Pandey, Advocates

For the Respondents : Mr. T. Singhdev, Ms. Biakthansangi and Ms. Puja Sarkar, Advocates for R-1/MCI

Mr. Praveen Kattar, Adv. for R-2 with Sh. L.D.S. Uppal, Assistant Secretary.

Mr. Kush Sharma and Mr. Ekant Luthra, Advocates for R-3

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGEMENT

SANJEEV SACHDEVA, J

CM No. 3292/2017 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C)718/2017 & CM No. 3293/2017

1. The petitioner has filed the present petition seeking setting aside of order dated 02.01.2017 passed by the Delhi Medical Council on the ground that the order is to come into force on 02.02.2017 prior to the expiry of the

period of limitation prescribed for filing an appeal. Learned counsel for the petitioner contends that the petitioner has been constrained to approach this Court as there is no provision of an interim order being passed by the Medical Council of India before whom the appeal has been filed by the petitioner.

2. Learned counsel for the petitioner submits that he does not press the challenge to the order dated 02.01.2017 premised on the fact that the same is effective from expiry of 30 days of the said order which is prior to the expiry of the period of limitation prescribed under the Indian Medical Council (Professional Conduct Etiquette & Ethics) Regulations 2002. He submits that the merits of the order are being challenged by way of an appeal to the Medical Council of India. However, he prays for suspension of the impugned order pending the hearing of the appeal, on the ground that the Medical Council of India does not have any power to pass any interim order and in case the order comes into force on 02.02.2017 prior to the appeal being taken into consideration, grave prejudice would be caused to the petitioner.

3. Learned counsel appearing for Medical Council of India submits that the appeal has been filed by the petitioner on 27.01.2017 and the same is being scrutinized by the Registry and the process of scrutiny etc. takes some time and appeal would be listed in due course and thereafter hearing would commence.

4. The penalty, of removal from the rolls for 30 days, imposed by the Medical Council of India by order dated 02.01.2017 is to come into effect on 02.02.2017. since, the appeal is not likely to be heard immediately, it appeal would be rendered infructuous as the name of the petitioner has been directed to be removed from the rolls of Medical Council of India for a period of 30 days and the Medical Council of India would not in a position to take up the appeal for hearing and dispose of the same finally within a period of 30 days of 02.02.2017.

5. Consequently, the writ petition and the applications are disposed of with the directions to Medical Council of India to dispose of the petitioner's appeal as expeditiously as possible. Till the appeal is disposed of, it is directed that the operation of the impugned order dated 02.01.2017 passed by the Delhi Medical Council shall remain stayed.

6. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 01, 2017

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