

\$~49

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 06.03.2017

W.P.(C) 1991/2017

DR. ASHWANI MAICHAND

..... Petitioner

versus

DELHI MEDICAL COUNCIL AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. K.G. Sharma with Mr. Jai Sahai Endlaw, Advocates.

For the Respondents : Mr. Praveen Khattar, Advocate for respondent No.1 with Mr. LDS Uppal, Asstt. Secretary, DMC.
Mr. T. Singhdev with Ms. Puja Sarkar,
Ms. Biakthansangi and Mr. Tarun Verma, Advocates
for respondent No.2.
Mr. Abhinav Shrivastava with Mr. Sameer Jain and
Mr. Harmeet Singh Ruprah, Advocates for respondent No.3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

%

06.03.2017

CM No.8795/2017 (exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 1991/2017 & CM No.8794/2017 (stay)

Issue notice. Notice is accepted by the learned counsel appearing for the respondent No.1 as also by the learned counsel appearing for the

respondent No.2. Notice is also accepted by the learned counsel appearing for the respondent No.3.

Learned counsel for the petitioner, under instructions, submits that the petitioner is restricting the present petition to considering of an interim order pending consideration of the appeal filed by the Medical Council of India. He submits that since the appeal, filed by the petitioner against order dated 30.01.2017 of Delhi Medical Council, is not likely to be listed shortly, as the same is under scrutiny and the operative portion of the order dated 30.01.2017 directing removing the name of the petitioner, has already come into force on 02.03.2017, grave prejudice is going to be caused to the petitioner. He submits that insofar as the merits of the order of 30.01.2017 are concerned, he would press the same in the appeal already filed before the Medical Council of India. He also withdraws the challenge to the said order on the ground that punishment could not have been directed to be given effect to, prior to the expiry of 60 days' period prescribed for filing an appeal under the Rules of Medical Council of India.

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

The penalty, imposed by the Delhi Medical Council, by the impugned order dated 30.01.2017, has come into force with effect from 02.03.2017 and as the appeal is not likely to be heard shortly, the appeal of the petitioner

cannot be rendered infructuous on the sole ground that the Medical Council of India is not in a position to take up the appeal prior to the period of removal coming to an end.

Consequently, the writ petition and the application are disposed of with a direction to the Ethics Committee of the Medical Council of India to take up the appeal for consideration in its very next sitting. The Medical Council of India shall dispose of the appeal of the petitioner as expeditiously as possible preferably within a period of four weeks of the first sitting of the Ethics Committee.

The counsel for the petitioner as well as the complainant assure that their clients shall render full cooperation to the Ethics Committee and facilitate the disposal of the said appeal within the time stipulated by this Court.

Till the appeal is disposed of, it is directed that the operation of the impugned order dated 30.01.2017 shall remain stayed.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 06, 2017

st