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

+ **W.P.(C) 2710/2016 & CM No. 11437/2016**

DR. DILIP MATHUR & ORS

..... Petitioners

Through: Mr Prashant Bhushan, Ms Kamini Jaiswal, Ms Rani Mishra, Mr Abhimanue Shrestha, Mr jatinder Pal Singh, Ms Shruti Dutt and Mr S. Srivastava, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Vikas Singh, Sr. Advocate with Mr T. Singhdev, Mr Tarun Verma and Ms Biakthansangi Das, Advocates for R-3/MCI.
Mr Bapi Das, Advocate for Mr Praveen Khattar, Advocates for R-4.
Mr Satish Tamta, Sr. Advocate with Mr Dhruv Tamta and Mr Shariq Iqbal, Advocates for R-8 & 10.
Mr Sanjeev Puri, Sr. Advocate with Mr Sajad Sultan and Mr Aditya Chibber, Advocates for R-11 & 12.
Mr Gautam Narayan, ASC for GNCTD with Ms Mahamaya Chatterjee, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.10.2017

1. The petitioners have filed the present petition, *inter alia*, impugning an order dated 10.10.2015, passed by the Medical Council of India (hereafter 'the MCI'), whereby the MCI has rejected the allegations of any

professional misconduct or negligence on the part of the doctors attending to Late Justice J. S. Verma (hereafter 'the patient'). The principal issue agitated by the petitioners is with regard to the administration of the drug *Dabigatran* and blood transfusion without monitoring calcium level of the patient. The petitioners allege that the patient was suffering from chronic liver disease and was already taking blood thinning medicine. They claim that in the given circumstances, administration of the drug *Dabigatran* amounts to medical negligence. They further claim that, thereafter, multiple blood transfusions were provided to the patient without monitoring his calcium levels. The petitioners contend that this was also a negligent act. It is further contended that, although, the drug *Dabigatran* was not administered at Fortis Hospital, nonetheless, the doctors attending to the patient at Fortis Hospital should have taken necessary steps to remove *Dabigatran* from the patient's blood stream.

2. All the aforesaid issues are contentious issues and are required to be examined by experts. Mr Vikas Singh, learned senior counsel appearing for the MCI states that all the aforesaid issues had been examined by the Sub Committee and there may not be any reason to review the same. Without going into the aforesaid controversy whether all the aforesaid issues had been properly examined by the sub-committee appointed by the MCI, it does appear that there are certain discrepancies between the orders passed by the Delhi Medical Council and the MCI; particularly as to whether the patient was suffering from chronic liver disease or not. Therefore, the issue whether the drug *Dabigatran* ought to have been administered to a patient suffering from chronic liver disease would require to be re-examined. In view of the above, it is directed that MCI constitutes a committee

comprising of three members from the – Heads of Department in the subject of Cardiology, Gastroenterology and Anaesthesia at the All India Institutes of Medical Sciences or PGI, Chandigarh. The Committee so formed shall examine the issues as indicated in the first paragraph of this order.

3. The petitioners would be at liberty to file their submission before the MCI, which would be forwarded to the concerned Committee. The petitioners would also be afforded an opportunity to be heard by the aforementioned Committee before the final opinion is submitted to the MCI. MCI would consider the opinion of the Committee so constituted and pass an appropriate order. The aforesaid Committee shall form its opinion uninfluenced by the earlier orders passed by the MCI or DMC and/or the expert opinions considered by the said bodies. MCI shall also pass its order uninfluenced by the impugned order.

4. It is clarified that nothing stated in this order should be construed as an expression of opinion (*prima facie* or otherwise) as to the merits of the allegations raised by the petitioners and the MCI shall examine the issues uninfluenced by any observations made in this order.

5. It is further clarified that the scope of fresh examination is limited to the issues indicated in the first paragraph of this order and any other connected issues. The decision of the MCI regarding other issues is final and does not require to be revisited.

6. The petition and pending application are disposed of.

VIBHU BAKHRU, J

OCTOBER 11, 2017
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