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

+ LPA 424/2017

J P MAHAJAN

..... Appellant

Through: Mr. Neeraj Kumar Jha, Advocate.

versus

GOVERNING BODY KIRORI MAL COLLEGE
& ANR

..... Respondents

Through: Mr. Pranav Kumar Jha, Advocate for
respondent No.1.
Ms. Disha Malhotra, Advocate for
respondent No.2/ DU.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
31.05.2017

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C.M. No. 21736/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

LPA 424/2017

Issue notice. Learned counsels accept notice on behalf of the respondents.

The present Letters Patent Appeal is directed against the order dated 22.05.2017 passed by the learned Single Judge in C.M. No. 16121/2017 in W.P. (C.) No. 3663/2017.

The submission of learned counsel for the appellant is that on 28.04.2017, when the aforesaid writ petition and application came up before the learned Single Judge for the first time, after hearing the submissions of learned counsels, the learned Single Judge had issued notice in the writ petition and in the aforesaid stay application, the learned Single Judge had, while issuing notice, observed as follows:

“Learned counsel for the petitioner states that the preliminary hearing in the disciplinary proceedings is dated 10th May, 2017. If that be so, the proceedings against the petitioner shall be deferred by the Enquiry Officer to a date beyond 20th May, 2017.”

Learned counsel submits that when the case was taken up on the adjourned date, i.e. 22.05.2017, the respondent No.2 sought further time to file counter-affidavit, which was granted by the Court. However, in C.M. No. 16121/2017, the learned Single Judge passed the order simply listing the application on the date fixed, i.e. 11.08.2017. The order dated 28.04.2017 passed in the aforesaid application was not continued by the Court, and no reasons were recorded for discontinuation of the same.

Learned counsel for the respondent No.1 submits that on the said date, i.e. 22.05.2017, the respondent had contested the continuation of the interim direction and only after hearing the counsels, the learned Single Judge refused to continue the interim order. He states that the counter-affidavit of the respondent No.1 was already on record before the learned Single Judge when the order dated 22.05.2017 was passed.

We are of the view that if the learned Single Judge was of the mind not to continue the interim directions, it was obligatory upon him to pass a reasoned order, recording his reasons for not continuing the interim

directions. The learned Single Judge could not have simply directed listing of the application on the date fixed. The passing of the impugned order in C.M. No. 16121/2017 tantamounted to variation of the earlier interim direction granted by the Court, and while doing so, the learned Single Judge should have recorded the reasons.

In view of the aforesaid, the order dated 22.05.2017 passed in C.M. No. 16121/2017 is set aside. The interim direction contained in the order dated 28.04.2017 in C.M. No. 16121/2017 shall continue to operate till the next date fixed in the writ proceedings, i.e. 11.08.2017. Therefore, the Enquiry Officer shall adjourn the disciplinary proceedings to a date beyond 11.08.2017. On the said date, the learned Single Judge may, after hearing the parties, pass such orders as he may consider appropriate. It goes without saying that it shall be open to the respondents to seek variation of the interim order operating in case as passed on 28.04.2017, by moving an appropriate application before the learned Single Judge.

The appeal stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 31, 2017

B.S. Rohella