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

+ **W.P.(C) 10779/2017**

DR. ANIL GROVER Petitioner

Through: **Mr Rajesh Banati and Mr Tarun
Walia, Advocates.**

versus

DELHI MEDICAL COUNCIL AND ORS. Respondents

Through: **Mr Praveen Khattar, Advocate for R-
1, DMC.**

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **05.12.2017**

CM No. 44144/2017

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. Issue notice.
4. The learned counsel appearing for respondent no.1 accepts notice.
5. The principal question that involved in this petition is whether the State Medical Council (in this case DMC) has the discretion not to suspend a registered medical practitioner if charges are framed by a Court against the said medical practitioner framed under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act,1994 (hereafter 'the Act').

6. This Court is of the *prima facie* view that the State Medical Council would have to exercise its discretion and take a *prima facie* view, after hearing the concerned medical practitioner, before suspending his registration as a medical practitioner.

7. In the present case, the show cause notice was issued to the petitioner on 06.07.2015 and the only ground stated in the show cause notice was that a charge had been framed against the petitioner under the said Act. The petitioner had responded to the said show cause notice by a letter dated 16.07.2015 *inter alia* stating that the order framing charges had been stayed at the material time. Concededly, no further communication was issued by the Delhi Medical Council (hereafter 'DMC').

8. It appears that DMC has proceeded to suspend the petitioner by an order dated 23.10.2017 (which is impugned in the present petition) as the stay against the order framing charges was vacated.

9. Admittedly, no further show cause notice was issued to the petitioner and the petitioner had no opportunity to present its case before the DMC.

10. The learned counsel for the parties state that it is not necessary for this Court to decide the question raised in the present petition and the petitioner may be relegated to exhausting the statutory remedies. It is also pointed out that the petitioner has filed an appeal before the Medical Council of India (hereafter 'MCI') against the impugned order of DMC.

11. In view of the above, the present petition alongwith the application is disposed of by staying the impugned order till the MCI decides the

petitioner's appeal.

12. It is clarified that this is without prejudice to the DMC's contention that MCI is not the appropriate forum to adjudicate an appeal against the order of DMC.

13. Order *dasti*.

DECEMBER 05, 2017
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VIBHU BAKHRU, J