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

+ W.P.(C) 607/2018 & CM No.2663/2018 & CM No.2664/2018

DR MANISH GUPTA Petitioner

Through: Mr Amardeep Singh, Advocate.

versus

DELHI MEDICAL COUNCIL & ORS Respondents

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

Mr T. Singhdev, Ms Amandeep Kaur,
Mr Tarun Verma, Ms Biakthan
Sanghi Das, Ms Puja Sarkar and Mr
Abhijit Chakravarty, Advocates for
R-3/MCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.01.2018

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 08.01.2018 passed by the Medical Council of India (hereafter 'the MCI'), whereby the petitioner's appeal against an order dated 23.10.2017 passed by the Delhi Medical Council (hereafter 'the DMC') was rejected.
2. The Delhi Medical Council has suspended the petitioner's registration as a medical practitioner in view of the provisions of Section 23(2) of the Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereafter 'the Act'). It is the petitioner's contention that such suspension is not automatic and the DMC was required to follow

the principles of natural justice, including affording the petitioner an opportunity to be heard, before taking any punitive action.

3. The petitioner's appeal was placed before the Ethics Committee of MCI, which was of the view that the decision of the DMC must be upheld. The Executive Committee of the MCI accepted the aforesaid view and rejected the appeal preferred by the petitioner.

4. The relevant extract of the decision of the Ethics Committee, as quoted in the impugned order passed by the MCI is set out below:-

“The Ethics Committee observed that Delhi Medical Council has suspended the registration of Dr. Manish K. Gupta under provision of PC & PNDT Act, till the final disposal of the case. At this moment there appears to be no need to take up this case. Hence, Ethics Committee decided to uphold the decision of Delhi Medical Council”

5. Mr Singhdev, learned counsel appearing for the MCI states that the MCI may not have any jurisdiction to entertain any appeal arising from any action taken by the DMC under Section 23(3) of the Act

6. It is apparent from the impugned order passed by the MCI that, it has not considered any of the pleas raised by the petitioner. Further, the impugned order also does not indicate that the MCI has declined to entertain the appeal for want of jurisdiction.

7. In view of the above, this Court considers it apposite to remand the matter to MCI to consider the contentions urged by the petitioner and pass a reasoned order after affording the petitioner an opportunity of being heard.

8. It is clarified that this Court had not expressed any opinion on the merits of the contentions advanced by the petitioner as this Court is of the view that the same must be considered by the MCI in the first instance.

9. The petition alongwith the applications is disposed of with the aforesaid directions. However, in the meanwhile, the impugned order dated 23.10.2017 passed by the DMC shall be stayed till MCI takes its decision.
10. MCI is also requested to consider this matter as expeditiously as possible and preferably within a period of eight weeks from today.
11. Order *dasti*.

VIBHU BAKHRU, J

JANUARY 24, 2018
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