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

+ W.P.(C) 1413/2015 and CM No. 2478/2015 (stay)

NILRATAN SAHA

..... Petitioner

Through Ms. Supriya Juneja, Mr. Aditya
Singla, Mr. Bhanu Monga, Advs.

versus

MEDICAL COUNCIL OF INDIA & ORS.

..... Respondents

Through Mr. Rabin Manumdar and
Ms. Antima Bazaz, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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16.01.2018

At this stage counsel for the petitioner has restricted his challenge to the impugned order dated 23rd January, 2015 marked as 'Annexure P-1' on the ground that it is a non-speaking order.

2. 'Annexure P-1' reads as under:-

"I am directed to inform you that the above matter was considered by the Ethics Committee at its meetings held on 17th & 18th July, 2014. The operative part of the decision of the Committee reproduced as under:-

"The Ethics Committee considered the appeal dated 07.02.2014 filed by Sh. Subir Roy against Dr. N. R. Saha, Malda Nursing Home, Mokdumpur, Malda, West Bengal and noted that the both the parties i.e. Sh. Subir Roy, Appellant and Dr. Nilratan Saha, Respondent appeared

before the Ethics Committee and submitted their depositions before the Committee, which are as under:-

Statement of Dr. N. R. Saha

I Dr. N. R Saha, S/o Late Dr. Srinath Saha R/o 29 B. G. Road, Malda, appeared before the Ethics Committee today i.e. on 19.07.2014 and gave the complete details of the case before the Ethics Committee. I have managed the case to the best of my clinical skills and followed all acceptable procedures and standards. I have not committed any negligence in the case. The Nursing Home in which my patient was admitted is well equipped. It is well maintained and well managed. There are 3 to 4 RMO's and qualified nurses available 24 hours.

Sd/-
(Dr. N. R. Saha)

Statement of Sh. Subir Roy

I, Subir Roy hereby submitting my written statement. I would like to ask a question from the Ethics Committee that if my wife was healthy and fit how such accident took place. I have nothing more to mention.

Sd/-
(Subir Roy)

The Ethics Committee after hearing the statements given by both the parties, perusing all the documents in record, deliberated in detail and decided to remove the name of Dr. N. R. Saha for a period of One Year from the Indian Medical Register.”

The above recommendation of the Ethics Committee has been approved by the Executive Committee at its

meeting held on 1st October, 2014.

In view of the above, I am directed to request you to take further necessary action in the matter, accordingly.”

3. Learned counsel appearing for Medical Council of India has stated before us that ‘Annexure P-1’ incorporates the decision of the Ethics Committee. Ethics Committee had not separately recorded reasons and grounds, for directing that the petitioner’s name be removed from the Indian Medical Register for a period of one year.

4. It is obvious that the impugned order is a non-speaking order and does not set out the reasons for arriving at the conclusion and finding that the petitioner’s name should be removed from the Indian Medical Register for a period of one year. Upon filing of the present writ petition, the operation of the impugned order was stayed vide order dated 12.02.2015 and the stay has continued.

5. Learned counsel for respondent No.2 who appears for the complainant, on whose complaint the proceedings were initiated, accepts that the impugned order is a non-speaking order and states that the matter may be remanded to the Medical Council of India for fresh decision.

6. Learned counsel who appears for petitioner states that they have no objection and that they would be satisfied, if Ethics Committee hears the petitioner and thereafter a fresh order without being influenced by the earlier order.

7. In view of the statement made by the counsel for the petitioner and noticing that the impugned order ‘Annexure P-1’ is a non-

speaking order; we pass an order of remand for fresh decision by the Ethics Committee. As constitution of Ethics Committee has undergone a change and in view of the time gap, the Ethics Committee shall grant fresh hearing to the petitioner and second respondent.

8. Accordingly, we quash 'Annexure P-1' and pass an order of remand for fresh decision by the Ethics Committee, without commenting on merits. To cut short delay, the petitioner and respondent No.2 or their authorised representative will report to the Deputy Secretary, Ethics Committee on 07.02.2018, when a date for hearing, before the Ethics Committee, will be intimated. The writ petition is disposed of in the aforesaid terms without any order as to costs.

9. Copy of the order be given *dasti* under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 16, 2018

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