

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

Date of Order: May 03, 2018

+ **W.P.(C) 6623/2014 & CM No. 15755/2014**

MEDICAL COUNCIL OF INDIA

..... Petitioner

Through: Mr. Vikas Singh, Sr. Advocate
with Mr. T Singhdev and Mr.
Biakthansangi, Advocates

versus

NATIONAL COMMISSION FOR SCHEDULED CASTES

& ANR

..... Respondents

Through: Mr. Anil Soni, CGSC with Ms.
Priyanka Singh, Advocate for R-1
Mr. Amrendra Kumar, Advocate
For R-2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order/recommendation of 30th June, 2014 (Annexure P/1) issued by the first respondent is assailed in this petition on the ground that first respondent has no jurisdiction to issue the aforesaid impugned order.
2. Learned Senior counsel for petitioner submits that the operative portion of the impugned order needs to be quashed as it is contrary to the record. It is pointed out that second respondent was discharged from service on 25th November, 2005 and by way of a writ petition, he had sought deemed confirmation which was declined by a Coordinate Bench

of this Court vide order dated 24th November, 2005 (Annexure P-6) and the said order has been upheld by a Division Bench of this Court vide order of 22nd September, 2006 (Annexure P-8). So, it is submitted that the operative portion of impugned order though recommendatory, ought to be set aside. Reliance is placed upon decisions of Coordinate Bench of this Court in *National Seed Corporation Ltd. Vs. National Commission For SC & ST & Anr.* 2013 SCC OnLine Del 2229 and *Union of India & Anr. Vs. National Commission for Scheduled Castes & Anr.* 2014 SCC OnLine Del 3324.

3. Learned counsel for the first respondent submits that the impugned order is a recommendation and is not binding on petitioner. Learned counsel for second respondent submits that Dr. R Salhan, Member, Board of Governor, MCI had recommended reinstatement of second respondent on 1st November, 2010 and so, discharge of second respondent is otherwise also not proper.

4. It is pointed out by learned Senior counsel for petitioner that in the rejoinder, it has been categorically asserted that such a recommendation could not have been issued by first respondent as the penalty awarded already stands affirmed by a Coordinate Bench of this Court and by an order of Division Bench of this Court.

5. Upon hearing and on perusal of impugned order and the decisions cited, I find that it is in nature of a recommendation only and is not binding on petitioner. However, the operative portion of the impugned order runs contrary to this Court's decisions (Annexure P-6 and Annexure P-8). Therefore, the impugned order though recommendatory in nature, is

set aside as has been done by Coordinate bench of this Court in *National Seed Corporation Ltd. and Union of India & Anr. Vs. National Commission for Scheduled Castes & Anr.* (supra).

6. In light of the aforesaid, impugned order is hereby quashed. This petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MAY 03, 2018

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