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

+ **W.P.(C) 9479/2018**

DR. MANISHA MITTAL

..... Petitioner

Through Mr Gaurav Sarin, Mr Aditya Sinla,
Ms Supriya Juneja, Mr Bharat Nanga, Advocates.

versus

MEDICAL COUNCIL OF INDIA

..... Respondent

Through Mr T. Singhdev, Mr Tarun Verma,
Ms Amandeep Kaur, Mr Abhihiyeet, Advocate for
MCI/R1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.09.2018

C.M. No. 36854/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 9479/2018 & C.M. No. 36853/2018

3. The petitioner has filed the present petition seeking stay of the operation of the order dated 24.07.2018 passed by the Delhi Medical Council (hereafter 'the DMC').
4. The petitioner is a medical doctor. The DMC had passed an order dated 24.07.2018 directing the removal of the petitioner's name from the medical register for a period of two months. The petitioner has appealed

against the order dated 24.07.2018 before the Medical Council of India (hereafter 'MCI') and it is stated that the said appeal is pending.

5. It is pointed out that MCI does not have any power to pass an interim order in appeals filed before it under Regulation 8.8 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. It is, therefore, contended on behalf of the petitioner that the order dated 24.07.2018 be stayed.

6. The learned counsel appearing for the respondent contests the petition. He submits that the present petition is not maintainable as the petitioner has not arrayed DMC as a party.

7. Although, the objections raised on behalf of the respondent appear to be merited, this Court does not consider it apposite to reject this petition. This is for the reason that this Court has taken a consistent view that pending the disposal of an appeal before the MCI, the order imposing punishment by the DMC ought to be stayed, as not doing so would render the appeal infructuous. The learned counsel appearing for the petitioner has also referred to the decision of the Coordinate Bench of this Court in ***Pramod Batra v. Delhi Medical Council: W.P (C) 1735/2008, decided on 03.03.2008.***

8. In view of the above, the petition is allowed and the impugned order dated 24.07.2018 is stayed till the disposal of the petitioner's appeal before the MCI. A copy of this order would be communicated by the learned counsel for the petitioner to the DMC. The pending application stands disposed of.

9. It is clarified that this Court has not expressed any opinion on the merits of the case and nothing stated herein should be construed as such. The MCI shall consider the appeal in accordance with law.

10. Order *dasti* under the signature of Court Master.

SEPTEMBER 10, 2018

pkv

VIBHU BAKHRU, J