

\$~48

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

+ **LPA 696/2018 & CM APPL. 51846/2018**

SAURABH RATHEE Appellant

Through: Mr. Priyanshu Upadhyay, Adv.

versus

UNIVERSITY OF DELHI & ANR Respondents

Through: Mr. Mohinder J.S. Rupal, Adv. for
University of Delhi.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **11.12.2018**

CM APPL. 51846/2018 (*exemption*)

Allowed, subject to just exceptions.

LPA 696/2018

1. Seeking exception to an order passed by the learned writ court on 25.10.2018 in W.P.(C) 1139/2018, this appeal has been filed under Clause 10 of the Letters Patent.
2. Disciplinary action was taken against the appellant by the University of Delhi and he was visited with certain punishment. Appellant was a student prosecuting a course of study i.e. MBBS and challenging the punishment imposed the writ petition in question was filed. However, when the writ petition came up for consideration before the writ court on 25.10.2018 it was found that the appellant has been directed to take up the first professional MBBS examination which was held in October, 2018 and he would be eligible to take the second examination in the first week of December, 2018. Taking note of this factor, it has been held that as the

appellant is directed to take up the examination the writ petition is rendered infructuous and disposed of. However, grievance of the appellant is that the stigma attached to the punishment imposed continues and as this adversely affects his prayer for considering the validity or justification of the punishment, it should have been decided by the learned writ court and this having not been done he is before us in this appeal. On a perusal of the prayer made in the writ petition and the submissions available on record, we find that the appellant did challenge the imposition of punishment itself. Merely because the appellant has taken up the examination in question, the stigma, if any, attached to the punishment still continues and if the said grievance is not addressed in the writ petition in spite of the prayer made, the order passed by the writ court to that extent warrants correction.

3. Accordingly, we allow this appeal and remand the matter back to the learned writ court with a request to decide the question of imposition of punishment, its justification or otherwise in accordance with law.

4. With the aforesaid, the appeal stands disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 11, 2018

kks