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

+ LPA 693/2017 & CM APPL. 38681-84/2017

SHISHIR CHAND

..... Appellant

Through: Mr. Anand Grover, Sr. Adv. with
Mr. Pranav Sachdeva and
Ms. Shrinidhi Rao, Advocates.

versus

MEDICAL COUNCIL OF INDIA (MCI)

..... Respondent

Through: Mr. T. Singhdev and Mr. Tarun
Verma, Advocates for R-1.
Mr. Parag Tripathi, Sr. Adv. with
Mr. Punit Tyagi, Mr. Ashwin
Mishra and Mr. Kunal Bahri,
Advocates for R-2.
Mr. Ram Ekbalroy and
Mr. Subodh Kumar Jha, Advocates
for R-3.
Mr. Gopal Prasad, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **26.04.2018**

This appeal is with respect to the correctness of the learned Single Judge's conclusions that the respondent-Medical Council of India's Ethics Committee ought to reconsider the matter afresh on merits.

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The appellant urges that the findings of negligence have virtually been set aside by the impugned order, which even while noticing the *prima facie* determination of the Ethics Committee, commented that the review of the penalty of mere suspension from the medical practice for six months was done without following principles of natural justice.

The records disclose that the appellant had complained against the respondent doctor, pointedly alleging negligence in the treatment of his brother. The Ethics Committee in the first instance was of the opinion that having regard to the nature of the complaint and the preceding facts, the respondent doctor needed to be warned. Thereafter, in a fresh twist, as it were, the appellant approached the Ethics Committee for enhancement of sentence. After some initial hesitation, the Ethics Committee sought opinion and based upon it decided not to proceed further with regard to any punishment. The learned Single Judge, whom the appellant approached, considered the overall materials before him and was of the opinion that the Ethics Committee in fact ought to reconsider the matter afresh.

Learned counsel for the appellant questions the decision of the learned Single Judge firstly contending that when negligence was in fact established and proved, the impugned order setting aside that determination was not valid. It was secondly urged that the respondent doctor's qualifications were put into issue and the learned Single Judge recorded erroneous findings.

This Court has considered the materials which were on the record before the learned Single Judge. The impugned order, after examining the materials, including the relevant orders of the Medical Council of India, in the opinion of this Court correctly surmised that in fact there was no final determination. In these circumstances, the direction to the Ethics Committee to consider the matter afresh is in order and reasonable.

As far as the second aspect is concerned, this Court finds no infirmity with the learned Single Judge's findings with regard to the genuineness of the qualifications held by the second respondent doctor in this place.

For the foregoing reasons, the appeal is dismissed along with the pending applications.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 26, 2018

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