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

+ LPA 1/2018

ANAND SINGH

..... Appellant

Through: Mr. Kali Charan, Advocate

versus

DR PRADEEP SINGHAL & ORS

..... Respondents

Through: Mr. T. Singhdev, Ms. Amandeep
Kaur, Mr. Tarun Verma and Ms. Puja
Sarkar, Advocates for R-2.

Mr. Praveen Khattar, Advocate for
R-3.

Mr. Ajay Digpaul, CGSC with
Ms. Madhuri Dhingra, Advocate for
R-5.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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05.01.2018

The appellant's grievance is that the learned Single Judge in the impugned order set aside the disciplinary order of the Medical Council of India ('MCI') striking off the name of the respondent-Doctor from the Indian Medical Council's Register w.e.f. 30.05.2017. It is submitted that the learned Single Judge overlooked the circumstance that the concerned contesting respondent-Doctor had, in fact, preferred an appeal under Section 24(2) of the Indian Medical

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Council Act, 1956, and that in these circumstances, it was inexpedient to exercise the judicial review discretion.

The learned Single Judge entertained the writ petition on behalf of the aggrieved Doctors and after considering the record, was of the opinion that the proceedings of the Ethics Committee indicated that the show cause notices were returned unserved. Having regard to these circumstances, learned Single Judge set aside the disciplinary order, but, at the same time directed the MCI to pass a final order on merits within six months from the date of the impugned order (30.10.2017).

This Court is of the opinion that the plea of alternative remedy, and that the pendency of the appeal being a bar to the maintainability of the writ petition, which ordinarily is a substantial one, is not merited. Once the learned Single Judge discovered that the *ex-parte* order was not preceded by proper notice to the respondent-Doctor and other concerned Doctors, it was evident that there was a manifest failure of natural justice. In these circumstances, even while ensuring that corrective action, by way of directing fresh proceedings, the learned Single Judge has protected the interest of the complainant by ensuring that the complaint was to be disposed of within a time bound manner i.e. six months, with further adequate safeguards.

Having regard to these facts, the Court is of the opinion that the lone plea of alternative remedy is not a substantial one so as to warrant interference with the orders of learned Single Judge. At the

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same time, while the MCI shall ensure that the time limit specified is adhered, to the extent, it is expedient; it shall also ensure that the Overseeing Committee, which has been appointed to look into its affairs and functioning, is further apprised of this order to ensure its compliance.

The appeal is disposed of accordingly.


S. RAVINDRA BHAT, J


A. K. CHAWLA, J

JANUARY 05, 2018

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