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

Date of decision: 18th November, 2019

+ LPA 718/2019 and CM Nos. 49273, 49274/2019

VITAL HEALTHCARE PVT LTD Appellant
Through: Mr. Mukesh Sharma, Mr. Ranbir
Kundu and Mr. Mansih Tanwar,
Advs.

versus

CENTRAL MEDICAL SERVICES SOCIETY & ANR Respondents
Through: Mr. Rishi Kant Singh, Adv. for
R-1
Mr. Rajesh Gogna, CGSC with Mr.
Upendra Sai, Adv. for R-2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
18.11.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No.49273/2019 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The applications are disposed of.

LPA 718/2019

1. This Letters Patent Appeal has been preferred by the appellant (original petitioner) against order dated 11th September, 2019 passed by the learned writ court in W.P.(C) 1853/2018.

2. Looking to the facts of the case it appears that earlier the aforesaid W.P.(C) 1853/2018 was dismissed in default *vide* order dated 25th July, 2019 passed by learned writ court and thereafter the original petitioner preferred an application being CM No.36920/2019 seeking restoration of the same. The learned writ court *vide* order dated 11th September, 2019 dismissed the said restoration application on the basis of certain submissions made by learned counsel for the respondent on 25th July, 2019, and with the observation that the writ petition is devoid of merits.

3. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that earlier the writ petition preferred by this appellant was dismissed for default on 25th July, 2019. Thereafter application for restoration was moved and the same was not allowed, on the ground that the appellant had no case on merits. CM No.36920/2019 was dismissed *vide* order dated 11th September, 2019.

4. Having heard learned counsel for both the sides and looking to the facts of the case, it appears that there were reasonable reasons for restoration of W.P.(C) 1853/2018 which have been mentioned in CM No. 36920/2019. The restoration application could not be dismissed merely on the basis of the submission made by learned counsel for the respondent that there was no merit in the writ petition. This writ petition could have been restored and, thereafter on merit, the same could have been decided.

5. We therefore, quash and set aside the order dated 11th September, 2019 passed by the learned Single Judge in CM No. 36920/2019. CM No.36920/2019 (for restoration) is allowed and accordingly W.P.(C) 1853/2018 is restored to its original number.

6. W.P.(C) 1853/2018 will be decided on its own merits and withoutf being influenced by the earlier order passed by the learned Single Judge.
7. With these observations, this LPA is allowed and disposed of.
8. W.P.(C) 1853/2018 will be listed before the learned Single Judge as per roster on 25th November, 2019.

CM No. 49274/2019 (stay)

1. In view of the disposal of the appeal, this application stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

NOVEMBER 18, 2019/kr



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