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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 586/2020

DR. PRIYANKA

..... Petitioner

Through : Mr. Jeetender Gupta, Adv. along with
petitioner in person.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. Rajesh Kumar and Ms. Saakshi
Agrawal, Advs. for R-1/UOI.
Mr. T. Singhdev, Ms. Sumangla, Mr.
Abhijit Chakravarty and Ms. Arunima
Pal, Advs. for R-2/MCI.
Mr. Mohinder J.S. Rupal and
Mr.Kousik Ghosh, Advs. for
R-3/University of Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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30.01.2020

1. The substantive prayers made in the writ petition are as follows :

“(a) Issue a writ of mandamus or any other appropriate writ, order or directions to the respondents to restore the Petitioner's admission for the MS (General Surgery) Course, Batch 2019 at Respondent No.4 College under the Respondent No.3 University Quota;

(b) Issue a writ of mandamus or any other appropriate writ, order or directions to the respondents to quash / set aside the letter dated 03.10.2019/09.10.2019 issued by Respondent No.3 University, wherein the Petitioner's resignation has been accepted.”

2. Notice in this petitioner was issued on 17.01.2020 when the broad contours of the petitioner's case were set forth.

2.1 On that date, learned counsel for respondent nos.1, 2 and 3 had entered appearance.

3. Since respondent no.4/MAMC was not represented, notice was issued qua the said respondent.

3.1 The report of the Registry shows that respondent no.4/MAMC was served on 22.01.2020. Despite service, respondent no.4/MAMC was not represented on 23.01.2020, although, other respondents were represented.

4. On 23.01.2020, I had asked Mr. Mohinder J.S. Rupal, who appears on behalf of respondent no.3 university, to have the Dean, Faculty of Medical Sciences consider petitioner's representation for withdrawing her resignation vis-à-vis the seat allocated to her under the OBC category in MS (General Surgery) in respondent no.4/MAMC.

5. Mr. Rupal was directed to place the decision of the Dean, Faculty of Medical Sciences before this court.

6. Mr. Rupal says that he has obtained instructions. Learned counsel says that as far as the respondent no.3 university is concerned, it will not come in the way of petitioner if respondent no.4/MAMC has no objection.

7. Mr. T. Singhdev, who appears on behalf of respondent no.2/MCI, says that if the resignation is allowed to be withdrawn, the petitioner should fulfil the requisite requirements concerning attendance, examination and other attendant aspects.

8. As noted above, respondent no.4/MAMC despite service is not represented. Therefore, the said respondent No. 4/MAMC is not on record.

It will, thus, have to be presumed that respondent No.4/MAMC does not oppose the relief claimed by the petitioner.

9. Given the fact that the petitioner withdrew her resignation on 31.10.2019 and it was on that very date when she was communicated that her resignation had been accepted, there is in sense, a lack of clarity as to whether her withdrawal preceded the acceptance. Having regard to the fact that the petitioner's version is backed by an affidavit, at this juncture, the same will have to be accepted.

10. More importantly, given the peculiar facts and circumstances of the case, which point in the direction that the petitioner had submitted her resignation on account of psychological break-down due to the death of her father, I am inclined to allow the prayer made by the petitioner i.e. to withdraw her resignation.

11. Respondent no.4/MAMC will allow the petitioner to rejoin the aforementioned course.

12. Needless to add, as indicated by Mr. Singhdev, the petitioner will fulfil the requirements as provided under the extant regulations put in place by respondent no.2/MCI concerning attendance, examination and other attendant aspects.

13. To facilitate the aforesaid exercise, the petitioner will report to the Medical Superintendent, respondent no.4/MAMC, on 03.02.2020 at 11:00 am.

14. The writ petition is disposed of in the aforesaid terms.

15. *Dasti* under the signatures of the Court Master.

RAJIV SHAKDHER, J

JANUARY 30, 2020/aj