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

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Decision delivered on: 27.07.2021

+ **W.P.(C) 2764/2021, CM 8316/2021, 10653/2021 & 15324/2021, 8315/2021**

DR. SABYASACHI SAHA

..... Petitioner

Through: Mr. Tanmay Mehta and Mr. Anirudh Singh, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Shreesh Chadha, Advocate for UOI.
Mr. Vikas Singh, Senior Advocate with Mr. Gaurav Sharma, Mr. T. Singhdev, Mr. Dhawal Mohal and Mr. Michelle B. Das, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This writ petition is directed, essentially, against the order dated 07.01.2020, passed by Central Administrative Tribunal, Principal Bench, New Delhi (in short 'the Tribunal'), in O.A. No. 2094 of 2020.

1.1 Besides this, the petitioner has also laid challenge to the letter dated 25.11.2020, issued by respondent no. 1 i.e. Union of India (hereafter referred as 'UOI'), and the office order dated 29.11.2020, passed by respondent no. 2 i.e. Dental Council of India (hereafter referred as 'DCI').

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2. Broadly, the controversy which has arisen in the present matter is as follows:-

2.1 The petitioner was appointed as the Secretary to respondent no. 2/DCI on 11.06.2016.

2.2. A challenge to the aforementioned appointment was raised by way of a public interest petition; this petition was numbered as W.P.(C) No. 6503/2016. The challenge was repelled by the Division Bench of this court, vide judgement dated 18.01.2018. To be noted, respondent no.1/UOI and respondent no. 2/DCI were parties to the said writ petition. [See page 123 of the paper book]

2.3. The petitioner is aggrieved by the fact that four years after a challenge was made to the aforementioned appointment, and nearly two years post the date judgment of the Division Bench, the issue with regard to ostensible illegality committed in the process of appointment of the petitioner qua subject post was raised by respondent no.1/UOI, vide letter dated 25.11.2020. It is based on this letter i.e., letter dated 25.11.2020 that, respondent no. 2/DCI issued the impugned office order dated 29.11.2020.

2.4. As noticed hereinabove by us, apart from the impugned order of the Tribunal, both the letter dated 25.11.2020 and the office order dated 29.11.2020, are assailed in the present writ petition.

2.5. A perusal of the impugned order passed by the Tribunal would show that, while it did not interfere with the office order dated 29.11.2020, passed by respondent no. 2/DCI, the Tribunal directed, the respondents before it, [which would essentially mean the DCI], to take action in accordance with the law, as regards the issue concerning the appointment of the petitioner as the Secretary, DCI, within two months from the date of the impugned order.

The Tribunal, via the impugned order, went on to direct [and this direction is of some significance], that the petitioner will be entitled to discharge his functions, as usual, if no such steps are taken by respondent no. 2/DCI.

2.6. We are told by Mr. Vikas Singh, learned senior counsel, who appears on behalf of respondent no. 2/DCI, that a formal enquiry has not commenced and only a show-cause notice was issued, to which, a reply has been filed by the petitioner.

3. We may note that, this Court, on 17.03.2021 [after broadly capturing the contours of the matter], had declined to pass any interim order in favour of the petitioner, because it chose to wait for the result of the enquiry contemplated by respondent no.2/DCI against the petitioner. The Court, thus, directed that the report of the enquiry officer be placed before it.

3.1. As noticed above, the enquiry has not even commenced by respondent no.2/DCI, and therefore, axiomatically [as more than seven months have passed since the date of the order of the Tribunal], the directions contained in the order of the Tribunal, dated 07.01.2021, will have to kick in.

3.2. Resultantly, the petitioner will have to be restored to the post of Secretary, DCI. Counsel appearing for respondent no. 1 as well as Mr. Singh, cannot but accept, that this would be the logical sequitur of the directions contained paragraph 9 of the impugned order passed by the Tribunal. It would be relevant to note that, the respondents have not approached the Court against the direction of the Tribunal, as regards the direction contained therein concerning restoration of charge to the petitioner, if steps are not taken in accordance with the law, in respect of the matter in issue i.e. the petitioner's appointment within two months from the date of the impugned order i.e. 07.01.2021.

4. Accordingly, we dispose of the writ petition with the following directions: -

(i) The petitioner will be restored to the post of Secretary, DCI. This would, in effect, mean that Mr. M. L. Meena will have to demit the charge and handover the same to the petitioner.

(ii) Respondent no. 2/DCI will be entitled to trigger a formal enquiry, and if such a decision is taken, the same will be concluded expeditiously. The petitioner will assist in the quick conclusion of the enquiry, in every possible way.

(iii) It is made clear that the petitioner will be entitled to raise all defences before the enquiry officer, including the defence that the enquiry, if initiated, would be without jurisdiction.

5. Consequently, the pending application(s) shall stand closed

6. Needless to add, since we have not examined the tenability of the impugned order, on merits, the same will not come in the way of the petitioner in the event he chooses to institute an action, hereafter, qua the matter in issue, in the instant petition.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 27, 2021

mr

[Click here to check corrigendum, if any](#)