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

+ **W.P.(C) 268/2021**

SH SHYAM SUNDER

.....Petitioner

Through: Mr. Narendra Gautam, Mr. Banarsi Lal, Mr. Nitin Kumar, Mr. Rohit Kumar, Mr. Subhash Yadav, Mr. Subham Sharma, Ms. Pallavi Birbal, Ms. Tanya Manik, Ms. Manchanda Pulu, Advocates with Petitioner in person

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Arvind Kumar Gupta, Mr. Abhiesumat Gupta, Mr. Ajay Sharma, Mr. Shivank S. Singh, Mr. Manav, Advocates for R-3.
Mr. T. Singhdev, Mr. Aabhaas Sukhraman, Mr. Abhijit Chakravarty, Ms. Anum Hussain, Mr. Bhanu Gulati, Mr. Tanishq Srivastava and Ms. Ramanpreet Kaur, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
25.07.2024

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1. The present petition challenges the order dated 4th August, 2020¹ passed by Medical Council of India (MCI), now National Medical Commission, which sets aside order dated 1st November, 2018 passed by

¹ "Impugned Order"



Delhi Medical Council (DMC), thereby exonerating Respondent No. 3 in the proceedings initiated against him under Indian Medical Council Act, 1956²..

2. Mr. Narendra Gautam, counsel for the Petitioner, states that the Petitioner has also approached the District Consumer Dispute Redressal Forum-X, Qutub Institutional Area, New Delhi, alleging deficiency on the part of hospital as well as the concerned doctors who had rendered services to them. Additionally, the Petitioner has filed a complaint under Section 200 of the Code of Criminal Procedure, 1973³ which is pending consideration before the Court of Metropolitan Magistrate, (South-East) District, Saket Court, New Delhi.

3. The scope of interference of this Court while examining a case arising out of proceedings under the IMC Act is entirely different from the nature of investigation to be done by the Consumer Forum in the complaint filed under the Consumer Protection Act, 2019 as well as the Metropolitan Magistrate in assessing the allegations of criminal negligence against the doctors. Furthermore, Mr. T. Singhdev, counsel for Respondent No. 2, has pointed out that by the time the Impugned Order was rendered by the MCI, Respondent No. 3 had served the suspension of 90 days which had been imposed by the DMC.

4. In light of the above, during the course of the proceedings, Mr. Gautam, on instructions, states that the present petition can be disposed of as withdrawn. However, he requests for the Court to clarify that the proceedings which are pending before the Consumer Forum as well as the Metropolitan Magistrate shall be decided independently, uninfluenced by

² “IMC Act”

³ “CrPC”



both the opinions rendered by the DMC and MCI.

5. Accordingly, as requested by Mr. Gautam on behalf of the Petitioner, the Court is of the opinion that the present proceedings should be closed, since the scope of the writ petition is confined to challenging the Impugned Order passed by MCI, which is entirely different from the broader scope of the complaints filed before the Consumer Forum and Metropolitan Magistrate. The Court is not making any observation on the merits of the case and also on the nature and manner of services rendered by the hospital and doctors. All rights and contentions of the parties are left open. Both the consumer case as well as the criminal complaint made by the Petitioner shall be adjudicated on their own merits independently, uninfluenced by the opinions of both, the DMC and the MCI.

6. The present writ petition is disposed of as withdrawn along with pending applications.

SANJEEV NARULA, J

JULY 25, 2024/ab