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

+ **W.P.(C) 8109/2024**

UTTAM CHAND MEENA

..... Petitioner

Through: Mr. Prashant Vaxish, Mr. Shubham
Datick, Mr. Sufiyan Firoz and Ms.
Kumari Tannu, Advocates.

versus

NATIONAL MEDICAL COMMISSION

..... Respondent

Through: Mr. T. Singhdev, Mr. Abhijit
Chakravarty, Mr. Bhanu Gulati, Mr.
Tanishq Shrivastav, Mr. Saurabh
Kumar, Ms. Anum Hussain, Ms.
Ramanpreet Kaur and Mr. Aabhaas,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

29.05.2024

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CM APPL. 33344/2024 (Exemption)

Allowed, subject to all just exceptions.

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1. Petitioner has approached this Court for a direction to the Respondent to decide the appeal filed by the Petitioner on 27.09.2021 against the Order dated 12.08.2021, passed by the Delhi Medical Council along with other appeals, being Appeal No.10/2020 by Dr. Nisha Jain, Appeal No.12/2020 by Dr. Vivek Gupta, Appeal dated 01.06.2020 filed by Dr. Greesh Kumar Manwani and Appeal No.19/2020 filed by the Petitioner herein against the Order dated 01.06.2020, passed by the Delhi Medical Council.

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2. It is stated by the learned Counsel for the Respondent that the appeal filed by the Petitioner on 27.09.2021 against the Order dated 12.08.2021, passed by the Delhi Medical Council, has already been returned on the ground that it is not maintainable under Section 30(3) of the National Medical Council Act, 2019. A copy of the Communication dated 01.11.2022 has been handed over in Court by the learned Counsel for the Respondent by which the Petitioner has been informed that the appeal is not being entertained. The Communication dated 01.11.2022 reads as under:

"To,

*Sh. Uttam Chand Meena,
17-D, Vikasniketan, North Extn. Pitam Pura,
Near Agrasen Dharamshala,
Delhi-110034
Mobile No.-9818158764,
Email id:- ucm.cvc@aol.com*

Subject: Non maintainability of appeal filed by Non-Medical Practitioner or Professional under section 30(3) of NMC Act. 2019.

Sir,

I am directed to refer to your appeals dated 27.09.2021 against the decision dated 12.08.2021 of Delhi Medical Council and to inform you that Section 30(3) of the NMC Act, 2019 states as follows:-

"A medical practitioner or professional who is aggrieved by any action taken by a State Medical Council under sub-section (2) may prefer an appeal to the Ethics and Medical Registration Board against such action, and the decision, if any, of the Ethics and Medical Registration Board thereupon shall be binding on the State Medical Council, unless a second appeal



is preferred under sub-section (4)."

2. The National Medical Commission in its meeting held on 06.10.2021 reiterated that based on the NMC Act, 2019 appeals from only Medical practitioners or professionals should be allowed as appeals before Ethics & Medical Registration Board (EMRB) under section 30(3) of the National Medical Commission Act, 2019.

3. Accordingly, it has been decided by EMRB that all the appeals of non-Medical Practitioners or Professionals which were filed on or after coming into force of all the provisions of the National Medical Commission Act, 2019 w.e.f. 25th September, 2020 shall be returned in pursuance of the provision under pursuance of section 30(3) of the NMC Act, 2019.

4. In view of the above, your appeal dated 27.09.2021 against the decision of Delhi Medical Council is returned herewith. Original demand No- 004306, dated 04.09.2021 is also returned herewith.

Yours faithfully,

*(CL Guleria)
Deputy Secretary, EMRB"*

3. The Petitioner has not filed the said letter nor has it been mentioned in the Writ Petition. This amounts to suppression of facts.

4. In view of the fact that the Petitioner has suppressed material facts and has not come to Court with clear hands, this Court is not inclined to entertain the present Writ Petition.

5. Accordingly, the Writ Petition is dismissed with costs of Rs.5000/- to be paid by the Petitioner to the Armed Forces Battle Casualty Welfare Fund



within two weeks from today.

6. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

MAY 29, 2024

Rahul