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

+ **W.P.(C) 12778/2023 & CM APPL. 50347/2023**

SHER SINGH MEHRA

.....Petitioner

Through: Mr. Zeeshan Diwan and Mr. Krishna
Datta Multani, Advocates.

versus

DELHI MEDICAL COUNCIL & ORS.

.....Respondents

Through: Mr. Praveen Khattar and Mr. Pritam
Kumar, Advocates for R-1/ DMC.
Mr. T. Singhdev and Mr. Abhijit
Chakravarty, Advocates for R-2/
NMC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.08.2024

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1. The present writ petition challenges the order dated 18th November, 2022 passed by Delhi Medical Council¹, as well as order dated 22rd March, 2023 passed by National Medical Commission², whereby a challenge to the said order of DMC was declined on the ground that an appeal from a non-medical practitioner or professional cannot be entertained under the framework of the National Medical Council Act, 2019³.
2. Mr. Zeeshan Diwan, counsel for the Petitioner, states that the Petitioner has also approached the National Consumer Disputes Redressal Commission⁴ alleging deficiency of services on the part of hospital as well

¹ "DMC"

² "NMC"

³ "NMC Act"

⁴ "NCDRC"



as the concerned doctors who had treated the Petitioner's wife. Additionally, he points out that on a complaint made by Petitioner to the SHO and pursuant to an application filed under Section 156(3) of Code of Criminal Procedure, 1973 before the Court of Metropolitan Magistrate Saket District Court, an FIR No. 458 of 2020 dated 10th November, 2020, was also registered in the Police Station, Tigri under Section 304 A of the Indian Penal Code, 1860 against Respondents No. 3 to 6. With respect to the said proceedings, the Investigating Officer made a representation to the DMC seeking their medical opinion on the cause of death of the Petitioner's wife. Such representation forms the subject matter of the impugned order of the DMC dated 18th November, 2022. Mr. Diwan, counsel for the Petitioner urges that in the instant case, the Delhi Police had no occasion to take second opinion from DMC.

3. Before examining the impugned orders, an assessment ought to be made as to the scope of interference of this Court under writ jurisdiction. In the Court's opinion, while examining a case arising out of proceedings under the DMC Act or the NMC Act, the scope of interference is entirely different from the nature of investigation required to be done by the Consumer Forum in the complaint filed under the Consumer Protection Act, 2019 or the scope of powers of the Metropolitan Magistrate in assessing the investigation into the allegations of criminal negligence against the doctors under the Indian Penal Code.

4. In light of the above, during the course of the proceedings, Mr. Diwan, on instructions, states that the present writ 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 would be adjudicated independently and uninfluenced by the opinions rendered by the DMC under the impugned order.

5. As requested by Mr. Diwan, the Court is also of the opinion that the present proceedings should be closed, since the scope of the writ petition is indeed confined to challenging the impugned orders passed by the DMC and the NMC, which is entirely different in comparison to the broader scope of the complaints filed before the Consumer Forum and the proceedings before the Metropolitan Magistrate emanating from the FIR.

6. 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 proceedings emanating from FIR No. 458 of 2020 dated 10th November, 2020 shall be adjudicated independently on their own merits and the concerned Courts shall not be bound by the decision rendered by DMC.

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

SANJEEV NARULA, J

AUGUST 21, 2024

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