



2024:DHC:5970-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **LPA 747/2024 & C.M.No.44418/2024****DR. RUPALI MISHRA**

.....Appellant

Through: Dr.Amit Mishra, Advocate.

versus

THE NATIONAL MEDICAL COMMISSIONRespondent

Through: Mr.T.Singhdev with Mr.Abhijit Chakravarty, Ms.Anum Hussain, Mr.Bhanu Gulati, Mr.Tanishq Srivastava, Mr.Aabhaas Sukhramani and Ms.Ramanpreet Kaur, Advocates for NMC.

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Date of Decision: 05th August, 2024**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, ACJ: (ORAL)**

1. Present letters patent appeal has been filed challenging the order dated 31st July, 2024 passed by the learned Single Judge of this Court in W.P.(C) 10560/2024, whereby the learned Single Judge issued notice to respondent/National Medical Council (NMC) but declined to stay the order dated 24th July, 2024 against the appellant, whereby the NMC upheld the punishment granted by Ethical & Medical Registration Board (EMRB) by its order dated 20th February, 2024. The NMC also enhanced the punishment



by directing closure of appellant's medical centre for thirty days as the centre is solely managed by the appellant and all registrations are in the name of the appellant.

2. It is pertinent to mention that vide order dated 20th February, 2024, EMRB upheld the order dated 21st February, 2022 passed by Delhi Medical Council (DMC), whereby the appellant was found guilty of violating Regulation 1.6 of the Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations, 2002 ("2002 Regulations") and recommended removal of the appellant's name from the state medical register for a period of thirty days.

3. Learned counsel for the appellant states that the appellant has already suffered punishment of ten days. He states that the appellant's role was purely administrative. He states that the order dated 21st February, 2022 is without jurisdiction as the DMC has no authority under law to punish the proprietor/owner of the clinic, medical centre, nursing home, hospital.

4. He further points out that the appellant has not been arrayed as an accused in the charge-sheet filed by the Delhi Police. He states that appellant will suffer irreparable harm if the order dated 24th July, 2024 is not stayed. He states that the writ petition will become infructuous by the next date of hearing and the reputational damage to the appellant cannot be cured even upon the subsequent finding that the suspension was unlawful.

5. Having heard learned counsel for the appellant and having perused the paper book, this Court finds that the impugned order dated 31st July, 2024 is based on an 'offer' given by the appellant which was accepted by the learned Single Judge. In fact, during the hearing before the learned Single Judge, the appellant's counsel had made a statement that the appellant would



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abstain from visiting her medical centre and practicing medicine. In light of the statement, the learned Single Judge has granted stay against the direction for closure of the appellant's medical centre.

6. Further, in the present case, the impugned order in the writ petition arises from a second appeal before the NMC, wherein the order passed by the EMRB in first appeal was challenged. Consequently, the appellant's case has been considered by three different authorities, who have given concurrent findings of fact.

7. Accordingly, this Court finds no error in the impugned order. Therefore, the same is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 5, 2024
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Signature Not Verified

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Signing Date: 05.08.2024
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