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

+ **W.P.(C) 13097/2024, CM APPL. 54736/2024**

NANDU

.....Petitioner

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Ms. Vaishali Shukla and Mr. Prakhar Mittal, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. T. Singhdev, Mr. Abhijit Chakravarty and Mr. Tanishq Srivastava, Advocates for R-2. Mr. Praveen Khattar, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.09.2024

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1. The present petition seeks the following reliefs:

“a) Issue appropriate writ, order or direction in the nature of certiorari thereby quashing the Letter/ Communication dated 06.03.2024 [Annexed as Annexure - 1] issued by Respondent No. 2/ NMC [and/or EMRC].; and/or, b) Issue appropriate writ, order or direction directing the Respondent No.2/ National Medical Commission /Ethics and Medical Registration to adjudicate upon the matter/ appeal filed by the Petitioner against impugned order dated 20.12.2023 fairly and impartially; and/or, c) Issue appropriate writ, order or direction in the nature of Writ of Mandamus thereby directing Respondent No.1/ Government of NCT of Delhi to frame necessary guidelines and/or make amends to enable the patient (and/ or its kith/ kin) to appeal under the National Medical Commission Act, 2019. d) Pass such other and further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Counsel for Respondents, on the other hand, contend that the question regarding the maintainability of an appeal by the Petitioner against the impugned order is no longer *res integra*. They argue that this Court has



previously declined to direct the Ethics and Medical Registration Board (EMRB) of the National Medical Commission (NMC) to entertain such appeals. This limitation is found under Section 30(3) of the NMC Act, 2019, which stipulates that an appeal is maintainable only at the instance of a medical practitioner or professional. To substantiate their contention, they cite order dated 29th March, 2023 in W.P.(C) 4067/2023 titled as '*Sunil Dhull v. National Medical Commission Through Chairman/ Authorised Representative and Ors.*'.

3. In light of the above, Mr. Mohit Chaudhary, counsel for the Petitioner, concedes that the aforementioned Prayers A and B are not maintainable. However, he argues that the Petitioner can still maintain Prayer C.

4. The Court observes that the wording of Prayer C lacks clarity regarding whether the Petitioner intends to challenge the *vires* of Section 30(3) of the NMC Act. In response, Mr. Chaudhary clarifies that his intent is indeed to contest the statute. Accordingly, after making some submissions, he seeks permission to withdraw the present petition with liberty to file a fresh petition challenging the relevant provisions of the NMC Act.

5. With the above observations, the present petition is dismissed as withdrawn, with liberty as aforesaid. The pending application(s), if any, is also disposed of.

6. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

SEPTEMBER 18, 2024/nk