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

+ **W.P.(C) 13392/2024 & CM APPL. 56010/2024**

DR.D.C. AGARWAL & ANR.

.....Petitioners

Through: Mr. Rajesh Kabir, Mr. Yogesh Kr.
Meena, Ms. Lisa Singh, Advocates
with Petitioners in person

versus

NATIONAL MEDICAL COMMISSION & ANR.Respondents

Through: Mr. T. Singhdev, Advocate for R-1
Mr. Praveen Khattar, Advocate for R-
2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

23.09.2024

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1. The present petition assails order dated 10th September, 2024,¹ passed by Respondent No. 2, Delhi Medical Council, whereby Petitioners' name on the State Medical Register of Delhi Medical Council was removed for a period of 365 days each. As specified in the impugned order, the direction for removal would come into effect after 60 days from the date of the order, i.e., on 9th November, 2024.
2. On 17th September, 2024, the Petitioners preferred an appeal against the impugned order before the Ethics and Medical Registration Board, National Medical Commission, Dwarka.²

¹ "the impugned order"

² "NMC"



3. The Petitioners' have invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking a stay of the impugned order, till the appeal is decided by the NMC.

4. Counsel for Petitioners argues that the appeal is not likely to be decided in the near future and the Petitioners will suffer irreparable loss if stay is not granted. Since, the NMC does not have any power to grant interim orders, the appeal filed before the NMC will become infructuous. To this effect, the Petitioners have placed reliance on the decision of the High Court of Judicature of Bombay, Nagpur Bench, in ***Dr. Ashok s/o Shrawan Bawaskar v. The National Medical Commission and Ors.***³

5. Having considered the afore-noted facts and contentions, in the opinion of the Court, in order to establish a *prima facie* case for grant of interim relief, the Petitioners must urge their grievances before the NMC.

6. Moreover, in the afore-noted case, the High Court of Judicature at Bombay, Nagpur Bench has observed that the power to grant interim relief pending consideration of an appeal under Section 30(3) of the National Medical Commission Act, 2019 is available with Ethics and Medical Registration Board of NMC. This position is also confirmed by Mr. T. Singhdev, counsel representing NMC.

7. In view of the foregoing, in the opinion of the Court, since there exists an adequate alternative remedy to urge for interim relief before the Ethics and Medical Registration Board, the Court finds no ground to entertain the present petition. Moreover, since the impugned order of Delhi Medical Council would come into effect on 9th November, 2024, the Petitioners have

³ Writ Petition No. 589/2021 decided on 6th April, 2022



sufficient time to make a request for interim relief before the Ethics and Medical Registration Board. Thus, the Petitioner is at liberty to file an application seeking interim stay of the impugned order.

8. In light of the above, the present petition is disposed of with a direction that the Ethics and Medical Registration Board, National Medical Commission, shall consider the Petitioners' application and decide the same, in accordance with law, before the impugned order of Delhi Medical Council comes into effect i.e. before 9th November, 2024.

9. It is made clear that the Court has not examined the merits of the case. All rights and contentions of the parties are left open.

10. With the above directions, the present petition, along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

SEPTEMBER 23, 2024/ab