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

+ **W.P.(C) 13657/2024**

DR. NEERAJ AGARWAL

.....Petitioner

Through: Mr. Prateek Bhalla, Ms. Mallika
Chadha, Mr. Akshay Soni, Advocates

versus

NATIONAL MEDICAL COMMISSION & ANR.Respondents

Through: Mr. T. Singhdev, Mr. Aabhaas
Sukhramani, Ms. Anum Hussain, Mr.
Abhijit Chakravarty, Mr. Bhanu
Gulati, Mr. Tanishq Srivastava,
Advocates for R-1/NMC
Mr. Praveen Khattar, Advocate for R-
2/DMC

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.09.2024

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1. The present petition assails order dated 12th September, 2024,¹ passed by Respondent No. 2, Delhi Medical Council, whereby Petitioner's name was removed from the State Medical Register of Delhi Medical Council for a period of 180 days. 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 11th November, 2024.

2. On 20th September, 2024, the Petitioner preferred an appeal against the Impugned order before the Ethics and Medical Registration Board,

¹ "Impugned order"



National Medical Commission, Dwarka.²

3. The Petitioner has 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 Petitioner argues that the appeal is not likely to be decided in the near future and the Petitioner 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 Petitioner has 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 Petitioner 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

² “NMC”

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



Council would come into effect on 11th November, 2024, the Petitioner has 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 Petitioner's application and decide the same, in accordance with law, before the impugned order of Delhi Medical Council comes into effect i.e. before 11th 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 27, 2024/ab