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

+ **W.P.(C) 16466/2024**

SHRI CHAND GAUTAM & ANR.

.....Petitioners

Through: Mr. Pritish Sabharwal, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Raj Kumar Yadav, Advocate for
R-2 & 3.

Mr. Chetan Gautam and Mr. Sushant
Sagar, Advocates for R-4 & 5.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **28.11.2024**

CM APPL. 69464/2024 (seeking exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioners shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

W.P.(C) 16466/2024

4. The present writ petition impugns order dated 15th April, 2024 passed by the District Magistrate (South), whereby their application under Rule 22(2) of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016¹, seeking eviction of Respondents No. 4 and 5, has been rejected.



5. It is noted that against the impugned order, the Petitioners have already preferred an appeal before the Divisional Commissioner under Rule 22(3)(4) of the Rules.

6. Since the post of the Divisional Commissioner was vacant, the Petitioner approached this Court through an earlier writ petition bearing no. W.P.(C) 13959/2024, seeking adjudication of their dispute. They contended that as the statutory remedy of appeal was not available owing to the vacancy and therefore, this Court should exercise writ jurisdiction.

7. Considering the factual background and taking into account the decision of the Division Bench in LPA 955/2024, which clarified that a link officer has been appointed to the post of the Divisional Commissioner, on 04th October, 2024, the said writ petition was disposed of by this Court with the following directions:

“3. In light of the above, since the Secretary (L&B), Mr. Nikhil Kumar, IAS, has been appointed as the link officer, he is now authorized to decide appeals under the Senior Citizens Act. Given that the Petitioners have already filed an appeal under Rule 22(3)(4) of the Senior Citizens Rules, in the opinion of the Court, the Petitioners should first exhaust the said statutory remedy before invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. It is accordingly directed that the appeal preferred by the Petitioners be heard and decided as expeditiously as possible by Mr. Nikhil Kumar, IAS, the Link Officer, in accordance with law.

5. In case the decision of Divisional Commissioner is adverse to the Petitioners, they shall be at liberty to avail appropriate remedies against the said order, in accordance with law.

6. Considering the Petitioners’ allegations of physical assault levelled against Respondent Nos. 4 and 5, pursuant to which they had also lodged a complaint before the Commissioner of Police, it is directed that the concerned SHO of the area shall ensure that the Petitioners are afforded adequate protection.

¹ “Rules”



7. All rights and contentions of the parties are left open. The Court has not examined the merits of the case and the above observations are only to enable the Petitioners to avail their statutory remedies of filing an appeal.

8. With the above directions, the present petition is disposed of along with pending application.”

8. Despite the clear directions of the Court, the Petitioners have yet again filed this present writ petition, urging that the Mr. Nikhil Kumar, IAS has again been transferred from the post of Divisional Commissioner to the post of Secretary to Chief Minister of GNCTD *vide* order No. 344 dated 23rd October, 2024, passed by the Lt. Governor, Delhi. Thus, in light of such a transfer, the Petitioners have once again approached this Court raising the same contention to the effect that in the absence of a presiding officer at the Appellate Authority under the Rules, the Petitioners are left with no effective mechanism for the adjudication of their appeal.

9. The Court has considered the submissions of the Petitioners, but remains unpersuaded. Firstly, it is noted that the Court has been informed that presently, the court of the Appellate Authority under the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016 is functional. Secondly, it is noted that once the Petitioners have urged the same ground before this Court and the Court has already issued necessary directions to Divisional Commissioner to consider the appeal, there is no requirement for further orders in this regard. Therefore, in the opinion of the Court, the instant writ petition is wholly unnecessary and accordingly, the same is dismissed with costs of INR 2000/- to be paid to Delhi Legal Services Authority.

10. With the above directions, the writ petition is disposed of, along with



pending application.

NOVEMBER 28, 2024/*d.negi*

SANJEEV NARULA, J