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

+ **W.P.(C) 17221/2024**

DR BRAJESH KUMAR KOUSHLE AND ANRPetitioners

Through: Ms. Pooja Dhar, Ms. S. Ambica,
Advocates

versus

DELHI MEDICAL COUNCIL AND ANRRespondents

Through: Mr. Praveen Khattar, Mr. Pritam
Kumar, Advocates for R-1

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **13.12.2024**

W.P.(C) 17221/2024 & CM APPL. 73206/2024 (for stay)

1. The Petitioners are Doctors registered with the Delhi Medical Council, Respondent No. 1. They assail order dated 14th October, 2024,¹ passed by Respondent No. 1 directing the removal of their name from the State Medical Register of the Delhi Medical Council, for a period of 30 days. The said order also directed the Petitioners to undergo 15 hours of CME on the subject of “management of Post TKR infections” and submit a compliance report to this effect to the Delhi Medical Council. 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 14th December, 2024.

2. At the outset, counsel for the Petitioners contends that the copy of

¹ “the impugned order”



the impugned order was served on them on 19th October, 2024 impugned order should take effect only from 19th December, 2024, i.e. 60 days after the impugned order was received by the Petitioners.

3. Be that as it may, it is pointed out that the Petitioners have preferred an appeal against the impugned order before the Ethics and Medical Registration Board² of the National Medical Commission under Section 30(3) of the National Medical Commission Act, 2019. Since, the operation of the impugned order is to take effect shortly, the Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking stay of the impugned order till the disposal of the appeal before the EMRB.

4. Counsel for the Petitioners regrets the lapse of time in filing the appeal before the EMRB, however, it is submitted that the Petitioners were taken aback with the findings of the impugned order, hence, they took time to consult their counsel for taking appropriate legal action. She contends that in case the impugned order is not stayed, the Petitioners' appeal pending before the National Medical Commission would be rendered infructuous.

5. The Court has noted the facts and grounds raised by the parties. This Court in ***Dr. D.C. Agarwal and Another v. National Medical Commission and Another***³ while examining 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***⁴ had observed that EMRB has the power to grant interim relief, pending consideration of appeal under Section

² "EMRB"

³ W.P. (C) 13392/2024 decided on 23rd September, 2024.

⁴ Writ Petition No. 589/2021 decided on 6th April, 2022



30(3) of the National Medical Commission Act, 2019.

6. In light of the foregoing, since there exists an adequate alternate remedy to urge the interim relief before the EMRB, the Court finds no ground to entertain the present petition and the Petitioners must pursue their remedy for interim relief before the EMRB. However, considering that the impugned order is likely to come into effect on 14th December, 2024, as urged by the counsel for the Delhi Medical Council, it is directed that the impugned order shall be kept in abeyance for a period of two weeks from today.

7. The Petitioner shall be at liberty to file an application seeking interim relief before the EMRB within a period of three days from today. However, in the event, the EMRB is unable to consider Petitioners' application within the afore-noted period, then the direction for keeping the impugned order in abeyance shall be extended till such time the application for interim relief is considered and decided.

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

9. It is clarified that the Court has not examined the merits of the case. All rights and contentions of the parties are reserved.

10. *Dasti* under signatures of the Court Master.

SANJEEV NARULA, J

DECEMBER 13, 2024/ab