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

+ W.P.(C) 3786/2020

DR NISHA JAIN

..... Petitioner

Through: Mr.V.M. Popli & Ms.Atishaya
Kaushal, Advs.

versus

DELHI MEDICAL COUNCIL & ORS.

..... Respondents

Through: Mr.Praveen Khattar, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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29.06.2020

This hearing has been held through video conferencing.

CM No.13583/2020 (Exemption from filing notarized affidavit and affixing requisite court fee)

1. This application has been filed seeking exemption from filing duly notarised affidavit and affixing requisite court fee. Binding the deponent of the affidavit to the contents of the application, the exemption is granted.
2. Court fee shall be deposited online with the concerned authority within one week and physical stamp be filed within 72 hours from the date of resumption of regular functioning of the Court, as mandated in terms of Office Order dated April 04, 2020 issued by this Court.
3. Application is disposed of.

CM No.13582/2020 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 3786/2020 & CM No.13581/2020 (Stay)

1. This petition has been filed by the petitioner challenging the order dated 09.03.2020 passed by the Disciplinary Committee of the respondent no. 1 in case no. DMC/DC/F.14/Comp.2494/2/2020, confirmed on 20.03.2020, and order dated 01.06.2020 issued by the respondent no. 1 by which the petitioner was inflicted with the punishment of removal of her name from the Delhi Medical Register for a period of 30 days and was directed to undergo ten hours C.M.E. on the subject “decision making and ethical practices in Gynecology” and to submit a compliance report to this effect to the respondent no. 1 within a period of three months. The order was to come into effect after thirty days from the date of the said order.

2. The learned counsel for the petitioner submits that the petitioner has filed an appeal before the Board of Governors which has been appointed in supersession of the Medical Council of India, however, the appeal is yet to be taken up for consideration and in any case, the Board of Governors do not have the power to grant an order staying the operation of the order passed by the respondent no. 1 during the pendency of the appeal. The learned counsel for the petitioner submits that in absence of an order of stay, the appeal itself would be rendered infructuous.

3. The learned counsel for the petitioner has also placed reliance on several orders that have been passed by this Court including the order dated 30.01.2018 passed in WP (C) 845/2018 titled ***Dr. Prabhunath vs. Medical Council of India And Anr.***

4. In view of the submissions made, it is directed that the punishment imposed by the respondent no. 1 in terms of the Impugned Orders shall not be implemented till the petitioner’s appeal is heard by the Board of

Governors and would be subject to any orders that may be passed by the Board of Governor in the said appeal.

5. It is clarified that this Court has not expressed any opinion as to the merit of the controversy raised by the petitioner in this petition. All rights and contentions of the parties are reserved.

6. The petition as well as the pending applications are disposed of in the above terms.

7. A copy of this order be supplied to the learned counsels for the parties.

NAVIN CHAWLA, J

JUNE 29, 2020/rv