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

+ W.P.(C) 4536/2017

VINOD KUMAR SHARMA Petitioner
Through: Mr. S.N. Kaul, Adv.

versus

DIRECTOR SCHOOL OF PLANNING & ARCHITECTURE AND
ANR Respondents
Through: Ms. Deepa Rai, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **23.05.2017**

CM No. 19800/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 4536/2017 & CM No. 19799/2017 (for stay)

It is the submission of Mr. S.N. Kaul, that petitioner was granted 1st ACP on 1st July, 2003. He made representation (s) for grant of further benefits under the Schemes of ACP / MACP. He states that the stand of the respondents in the impugned order that 2nd ACP was granted to the petitioner on 15th February, 2009, was not in the knowledge of the petitioner. He also states that petitioner was entitled to the 2nd ACP w.e.f 15th February, 2007. Unfortunately, vide the impugned order; the respondents intend to grant the benefit of 2nd MACP w.e.f 1st July, 2011 by withdrawing it from 15th February, 2009. He states that petitioner having retired in July, 2011,



the respondents could not have passed this impugned order withdrawing the benefit granted w.e.f 2009.

Learned counsel for the petitioner states that no recovery has been effected till date. He relies upon the judgment of the Supreme Court in the in the case of ***State of Punjab and Ors. v. Rafiq Masih 2015 4 SCC 334*** in support of his submission, that no recovery can be affected.

Noting the aforesaid submission, Notice. Ms. Deepa Rai, Adv. accepts notice for the respondents. Counter-affidavit be filed within four weeks. Rejoinder thereto be filed within two weeks thereafter. List before Joint Registrar for completion of pleadings on 25th September, 2017.

Till such time, the order is varied or modified, the respondents are restrained from effecting recovery from the pension of the petitioner pursuant to the order dated 13th February, 2017.

V. KAMESWAR RAO, J

MAY 23, 2017/jg