



\$~15

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

+ W.P.(C) 9283/2018

BEJON KUMAR MISRAPetitioner

Through: Mr. Shashank Deo, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ANRRespondents

Through: Mr. Udit Malik, ASC for GNCTD
Mr. Balendu Shekhar, CGSC with
Mr. Krishna, Advocate for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

%

27.11.2024

CM APPL. 34717/2024

1. On 04th April, 2024, Health Minister, GNCTD and the Secretary, Health and Family Welfare, GNCTD had jointly stated before this Court that the Delhi Health Establishments (Registration and Regulation) Bill, shall be forwarded to the Government of India for necessary approval. They had further agreed that during the interregnum the Clinical Establishments (Registration and Regulation) Act, 2010 (hereinafter referred to as 'Act, 2010') shall be adopted in the NCT of Delhi in compliance with the letter dated 21st July, 2023 of the Government of India and order dated 30th May, 2022 passed by this Court.



2. However, subsequently this Court was informed that the Act, 2010 cannot be implemented /invoked as Section 56 of the Act, 2010 saves the Delhi Nursing Homes Registration Act, 1953.

3. Keeping in view the aforesaid, learned counsel for the GNCTD had stated that GNCTD would write a letter to the Secretary, Ministry of Health and Family Welfare, seeking deletion of entry 3 to the Schedule of the Act, 2010.

4. Today, learned counsel for the GNCTD has handed over a photocopy of the letter dated 13th November, 2024 written by Secretary, Health and Family Welfare, GNCTD to the Secretary, Ministry of Health and Family Welfare, Govt. of India. The relevant portion of the said letter reads as under:-

“.....In pursuance of directions of Hon'ble High Court of Delhi, Nursing Cell, DGHS has prepared the draft notification for implementation of Clinical Establishment (Registration & Regulation) Act, 2010 in National Capital Territory of Delhi. Further, the file was forwarded to the Law & Justice Department, Govt. of NCT of Delhi for vetting the draft notification.

The L&J Department, GNCTD has examined the matter and opined (Para 85 of 18/N) as under :-

"85. On the basis of above legal provisions, it can be safely opined that there is no requirement of passing a resolution by Legislative Assembly of Delhi to adopt the Clinical Establishments (Registration and Regulation) Act, 2010. Rather, the proposal is required to be submitted to the Central Government to amend the schedule of the Clinical Establishments (Registration and Regulation) Act, 2010 so as to delete the Entry 3 of the Schedule i.e. "Delhi Nursing Homes Registration Act, 1953" and notify the date from which the said Act shall be made applicable to NCT of Delhi. Once that amendment is notified by the Central



Government, the provisions of the Clinical Establishments (Registration and Regulation) Act, 2010 shall become applicable to NCT of Delhi. Thereafter, the rules under section 54 of the said Act may be framed by this Government. The administrative Department may accordingly be advised to take up the matter with Central Government expeditiously so as to comply with the directions of Hon'ble High Court.

Accordingly, Nursing Cell, DGHS has prepared the proposal for adopting the Clinical Establishments (Registration & Regulation) Act, 2010 however, the Hon'ble Health Minister, GNCTD had requested to Hon'ble LG that once the amendment in Clinical Establishments (Registration & Regulation) Act, 2010 is notified by Central Govt., the provision of this Central Act shall become applicable to NCT of Delhi. This does not require a decision of Council of Ministers and requested the Hon'ble LG for his approval to send this reference of amendment to the Central Government. The said proposal of Hon'ble Health Minister has been considered by the Hon'ble Chief Minister and forwarded to Hon'ble LG for consideration. Further, the Hon'ble LG has approved the proposal to send the reference to Central Government for notify the amendment and also the date from which the provision of said Act shall be made applicable to NCT of Delhi.

Accordingly, the file (shadow file) is enclosed herewith for further necessary action at your end.

This may be given top priority as the next date of hearing is fixed for 21.11.2024 before the Hon'ble High Court of Delhi.”

5. In view of the aforesaid letter, Ministry of Health and Family Welfare, Govt. of India is impleaded as respondent no.3.
6. Mr. Balendu Shekhar, CGSC, who is personally present in Court, accepts notice. He prays for some time to take instructions. Let the needful be done.



7. List on 13th December, 2024.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 27, 2024/ms