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

+ W.P.(C) 9283/2018

BEJON KUMAR MISRA

.....Petitioner

Through: Mr. Shashank Deo Sudhi, Mr. Aru  
Prakash and Ms. Sheetal, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ANR .....Respondents

Through: Mr. Udit Malik, ASC (Civil),  
GNCTD alongwith Ms. Rima Rao  
and Ms. Palak Sharma, Advocates for  
GNCTD.

Mr. Balendu Shekhar, CGSC  
alongwith Mr. Raj Kumar Maurya  
and Mr. Krishna Chaitanya,  
Advocates for UOI/R-3.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER**

% **06.02.2025**

**CM APPL. 34717/2024**

1. The concern expressed in this Public Interest Litigation petition is about mal-functioning and poor regulation of the Clinical Establishments in the National Capital Territory of Delhi.
2. The Parliament in the year 2010 enacted the Clinical Establishments (Registration & Regulation) Act, 2010 (hereinafter referred to as the Act, 2010) with a view to provide for registration and regulation of clinical establishments and for matters connected thereto. The said enactment was made applicable to the States of Arunachal Pradesh, Himachal Pradesh,



Mizoram and Sikkim and the Union of Territories as resolution to the said effect was passed by the Legislatures of the said States under Article 252(1) of the Constitution of India.

3. Section 1 of 2010 Act provides that apart from the Act being applicable to the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and Union Territories, it shall also apply to such other State which adopts the Act by a resolution to be passed in that behalf in terms of the requirement of Article 252(1). Sub section (3) of Section (1) provides that the Act shall come into force in such States by notification to be issued by the Central Government and, in any other State which adopts the Act under Article 252 (1) on such date of adoption.

4. Section 56 of the 2010 Act contains a provision, according to which, the provisions of the said Act are not applicable to the States, in which the enactments enlisted in the schedule appended to the Act are applicable. Entry 3 of the Schedule appended to the Act is in respect of “The Delhi Nursing Homes Registration Act, 1953”. It has been stated by learned counsel appearing for the State Government that provisions of Delhi Nursing Homes Registration Act, 1953 having become obsolete, it was resolved by the State Government to implement the provisions of 2010 Act, however, the said implementation is permissible only if the Act is adopted by the State Government.

5. The Delhi Government appears to have examined the issue as to the procedure to be followed for making 2010 Act applicable in the National Capital Territory of Delhi and accordingly, it was opined that in case by way of an amendment, Entry 3 of the Schedule appended to the 2010 Act is deleted, the said Act shall become applicable in the Territories of Delhi as



well. However, learned counsel representing the Government of India has pointed out that for 2010 Act being made applicable to the Territories of Delhi, recourse will have to be taken to the proviso appended to Section 56 of the Act, 2010 as also to the provisions contained in clause (1) of Article 252 of the Constitution of India.

6. Article 252 of the Constitution of India permits the Parliament to legislate for two or more States by consent or by adoption of such legislation by any other State.

7. The provision thus contains two exigencies where a law made by the Parliament can be made applicable to the States on the subjects, over which Parliament has no power to make laws. The first situation is that in case the legislature of a particular State passes a resolution expressing that it shall be lawful for the Parliament to pass such an Act for regulating a particular matter, the Parliament can legislate on such a subject. And the second situation envisaged under Article 252 is where a State passes a resolution for making applicable an already enacted law made by the Parliament. Since, 2010 Act was passed by the Central Parliament on a subject on which the Central Parliament does not have any power to make laws and therefore, for adoption of such a law made by Parliament, the State Legislature will have to pass a resolution. This is the requirement not only in terms of Article 252(1) of the Constitution of India but also of the proviso appended to Section 56 of the Act, 2010. In an earlier affidavit, the State Government of Delhi had already expressed its desire to adopt the provisions of 2010 Act in the National Capital Territory of Delhi.

8. Accordingly, the only step to be taken now for making applicable to the provisions of 2010 Act applicable to the territories of Delhi is to take



recourse to the requirements of Article 252(1) of the Constitution of India and to those available in the proviso appended to Section 56 of the 2010 Act.

9. In view of the willingness already expressed by the State Government, we require the State Government to take appropriate steps to pass a resolution in terms of the requirements of Article 252 (1) of the Constitution of India forthwith. Whereupon necessary steps shall be taken by the Central Government for making amendment in the Schedule appended to 2010 Act.

10. List on 26.03.2025. To be placed high on Board.

11. Learned counsel representing the State Government shall apprise the Court of the steps which might be taken during this period for ensuring compliance of this order.

**DEVENDRA KUMAR UPADHYAYA, CJ**

**TUSHAR RAO GEDELA, J**

**FEBRUARY 6, 2025**

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