ALL INDIA INSTITUTE OF MEDICAL SCIENCES

February 13, 2016

PRESS STATEMENT

AIIMS STATEMENT ON THE JUDGMENT OF THE HON'BLE HIGH COURT OF DELHI IN CIVIL WRIT PETITION NO 3033/2015 SHRI SUDHIR KUMAR GUPTA VS AIIMS DATED 1/12.2016

AIIMS has received a copy of the judgment of the Hon'ble High Court of Delhi in Civil Writ Petition no: 3033/2015, Shri Sudhir Kumar Gupta vs AIIMS dated 1/2/2016.

AIIMS is examining the contents of the decision for implementation.

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

\+ W.P.(C) 3033/2015

DR. SUDHIR KUMAR GUPTA ..... Petitioner

Through: Mr. A.Sharan, Sr. Adv. with
Mr. Amit Kumar &
Mr. Shaarya Sahay, Advs.

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES (AIIMS) & ORS. ..... Respondents

Through: Mr. R.K.Gupta Adv. for R-1.
Ms. Monika Arora, CGSC with
Mr. Gaurav Upadhyay, Advs. for R-2.
Mr. Shiva Sharma with Mr. K.K.Nangia &
Mr. Munish Malik, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 01.02.2016

CM No.10652/2015

This is an application by All India Institute of Medical Sciences for seeking leave to appoint Dr. D.N. Bhardwaj, Professor of Department of Forensic Medicine and Toxicology as Head of Department (HoD) of Forensic Medicine and Toxicology at AIIMS.

This application, it appears, had been filed in view of the direction issued vide order dated 25th March, 2015 in the present writ petition and CM No.5422/2015 to the following effect:-

"W.P.(C) 3033/2015 and C.M.No.5422/2015

By this petition filed under Article 226 of the Constitution of India, the petitioner seeks to challenge the judgment and order dated 04.03.2015 passed by the

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Court Master
High Court of Delhi
New Delhi

learned Central Administrative Tribunal in O.A.No.2100/2014.

Issue notice to the respondents to show cause as to why rule Nisi be not issued. Mr.R.K.Gupta, Advocate accepts notice on behalf of respondent No.1/AIIMS. Mr.Abhishek Choudhary, Advocate accepts notice on behalf of respondent No.2/UOI.

Mr.A.Sharan, learned senior counsel appearing for the petitioner submits that the petitioner was appointed as Head of the Department of Forensic Medicine and Toxicology in AIIMS since the year 2013, taking into consideration his seniority on the post of Professor (Forensic Medicine and Toxicology) and presently he is continuing in the said position. He further submits that there is a serious apprehension that in the light of the decision given by the learned CAT which is now under challenge, the respondent No.1/AIIMS may take a decision to replace the petitioner either by appointing respondent No.3 or any other candidate.

Without expressing any opinion on the contentions raised by the petitioner, we direct the respondent No.1/AIIMS to take leave of this Court in the event of any contemplation at their end to replace the petitioner from the post of HoD.

Re-notify on 23.07.2015. Brief synopsis of written submissions along with supporting judgments, if any, be filed by counsel for the parties before the next date of hearing with advance copy thereof to the opposite counsel.

Copy of this order be given dasti under the signatures of the Court Master, as prayed."

This writ petition impugns the order dated 4th March, 2015

Court Master
High Court of Delhi
New Delhi

passed in Original Application No.2100/2014 which was filed by the petitioner-Dr.Sudhir Kumar Gupta challenging the promotion given to Dr.O.P.Murthy as a Professor in the Department of Forensic Medicine and Toxicology.

The impugned order dismisses the said OA for various reasons set out therein. The subject matter of the writ petition, therefore, is whether or not Dr.O.P.Murthy should have been appointed/promoted as a Professor in the Department of Forensic Medicine and Toxicology.

It may not be appropriate and advisable to examine questions and issues, whether or not a third person should be appointed as the Head of the Department in this writ petition which relates to and questions promotion of the respondent No.3 as a Professor. The said third person is not a party before us. The petitioner, if aggrieved, will have to take recourse and file new and fresh proceedings in accordance with law. The grievance of the petitioner may well be partly predicated on the assertion that the proposed appointment of Dr. D.N. Bhardwaj is actuated by malafides and malice. Other grounds and contentions are also raised. Allegation of malice etc. can be, if required, raised in the proceedings initiated, but it cannot be a ground to enter into a new and fresh cause and grievance.

We feel that the present application can be disposed of with the direction that it will be open to the All India Institute of Medical Sciences to examine and decide whether they want to appoint a third person, i.e., any person other than respondent No.3 as the Head of the Department. Should the petitioner-Dr.Sudhir Kumar Gupta be

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aggrieved by such appointment it would be open to him to impugn the same as per law including the competence of the authority to make such appointments. Any order passed by All India Institute of Medical Sciences appointing a third person as HoD would be kept in abeyance for a period of one month from the date the order is communicated to the petitioner.

Mr. A. Sharan, the learned Sr. Advocate submits that the petitioner would make a representation explaining his point of view to the All India Institute of Medical Sciences. We express no opinion on this aspect.

With the aforesaid observation and direction, this application is disposed off.

CM No.12030/2015

Learned counsel for the applicant-Dr. Adarsh Kumar states that in view of the order passed in CM No.10652/2015, the present application is rendered infructuous and he would withdraw the same.

In view of the statement made, the application is dismissed as withdrawn.

WP(C) No.3033/2015 with CM Nos.5422 & 12049/2015

List on 28.03.2016 at 2.25 pm.

Dasti under signatures of the Court Master.

SANJIV KHANNA, J

NAJMI WAZIRI, J

FEBRUARY 01, 2016/ak

Court Master
High Court of Delhi
New Delhi