

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C)(PIL) 01 OF 2014

Sri Prasenjit Chakraborty
S/O. Late Gouranga Chakraborty,
of Milan Chakra, Opp. of Doordarshan Kendra,
P.O. - A.D. Nagar, P.S. West Agartala
District: West Tripura.

..... **Petitioner.**

- V e r s u s -

1. The State of Tripura, represented by the Chief Secretary having his office at Civil Secretariat Agartala, West Tripura, P.O. Kunjaban, P.S. New Capital Complex.
2. The Deputy Secretary, Health & Family Welfare Department, having his office at Civil Secretariat Agartala, West Tripura, P.O. Kunjaban, P.S. New Capital Complex.
3. The Director, Health & Family Welfare Department, having its office at Gurkhabasti, P.O. Kunjaban, P.S. West Agartala, District- West Tripura.
4. The Deputy Drug Controller, having its Office at Gurkhabasti, P.O. Kunjaban, P.S. West Agartala, District-West Tripura.
5. Sri Rama Kanta Kar, S/O- Lt. Rakesh Ch.Kar, Jagatpur Kali Bari Road, Agartala, Near G.B. Bazar, District- West Tripura, P.O. Abhoynagar, Pin-799005.
6. Sri Manish Kr. Roy, S/O- Lt. Sachindra Kr. Roy, Dhaleswar Water Supply Road, P.O.-College Tilla, District-West Tripura.
7. Sri Narayan Ch. Deb, S/O- Lt.Nirendra Ch.Deb, Chandinamura, P.O.-West Bhurbanban, District-West Tripura, Pin-799002.
8. Sri Khokan Bhowmik, S/O- Lt. Harendra Lal Bhowmik, Vill-Baspara, P.O.-Belonia, P.S. – Belonia, South Tripura, Pin-799155
9. Smti Gita Das, D/O- Lt. Suresh Das, Circuit House, P.O.-Kunjaban, Agartala, West Tripura, Pin-799006
10. Sri Rabindra Sharma, S/O- Lt. Rupendra Ch.Sharma, Dhaleswar, West Tripura, Pin-799007.

11. Sri Goutam Das, S/O- Lt. Sudhir Das, Kunjaban Township,
Qtrs Complex, Qtr. No. 11/61, P.O.-Kunjaban, West Tripura.
12. Sri Ramprasad Chanda, S/O- Lt. Bidhu Bhusan Chanda,
Noagaon, Krishnanagar, Agartala, West Tripura,
Pin-799006
13. Barun Kr. Das, S/O-Lt. Dinabandhu Das, West Noabadi,
Senpara, P.O.-West Noabadi, Pin-799008.
14. Sri Tapan Debbarma, S/O-Subhendra Debbarma, Paschim
Rajnagar, Champahaor, Khowai, P.O.- Rajnagar,
Pin-799207.
15. Smt Nabanita Chakma, D/O- Debapriya Chakma, Vill &
P.O.-Chailengta, P.S.-Longtorai Valley, Dhalai-799273.
16. Sri Mritunjoy Das, S/O-Subal Ch. Das, Vill-North
Chandrapur, Udaipur, Gomati-799013.
17. Ajit Debbarma, S/O-Amulya Debbarma, Vill-Chota Surma,
P.O.-Marachara, Kamalpur, P.S.-Kamalpur, Pin-799285.
18. Dharendra Reang, S/O-Lt. Rabindra Reang, Vill-West Manu,
P.O.-Manpathar, Santirbazar, Pin-799144.

..... Respondents.

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE U.B. SAHA**

For the petitioner : Mr. J. Majumder, Advocate.

For the respondent- : Mr. B.C. Das, Advocate General.
State Mr. P. Roy Barman, Advocate.

For the respondent : Mr. R.G. Chakraborty, Advocate.
No.6.

Date of hearing and : 02.07.2015.
delivery of judgment
and order.

Whether fit for reporting : Yes.

JUDGMENT & ORDER (ORAL)

The only question which arises in this writ petition with regard to interpretation Rule 49 of the Drugs and Cosmetics Act, 1945, which reads as follows:-

"49. Qualifications of Inspectors.—A person who is appointed an Inspector under the Act shall be a person who has a degree in Pharmacy or Pharmaceutical Sciences or Medicine with specialisation in Clinical Pharmacology or Microbiology from a University established in India by law: Provided that only those Inspectors—
(i) who have not less than 18 months' experience in the manufacture of at least one of the substances specified in Schedule C, or
(ii) who have not less than 18 months' experience in testing of at least one of the substances in Schedule C in a laboratory approved for this purpose by the licensing authority, or
(iii) who have gained experience of not less than three years in the inspection of firm manufacturing any of the substances specified in Schedule C during the tenure of their services as Drugs Inspectors;
shall be authorised to inspect the manufacture of the substances mentioned in Schedule C:
[Provided further that the requirement as to the academic qualification shall not apply to persons appointed as Inspectors on or before the 18th day of October, 1993.]

2. According to Mr. J. Majumder, learned counsel, the words "specialization in Clinical Pharmacology or Microbiology" have to be read with all the three prescribed degrees i.e. a degree in Pharmacy, a degree in Pharmaceutical Sciences or a degree in Medicine. He therefore submits that only a person, who has one of the three degrees prescribed and also has a specialization either in Clinical Pharmacology or Micro-biology is eligible to be appointed as Inspector under the Drugs and Cosmetics Act, 1945 and Rule 49 referred to hereinabove.

3. On the other hand, the stand of the State and the private respondents is that the phrase "with specialization in Clinical Pharmacology or Micro-biology" is to be read only for those candidates who have a degree in Medicine and it does not apply to those persons who have a degree in Pharmacy or Pharmaceutical Sciences.

4. The question is indeed not easy to answer because no punctuation marks have been used in the first part of the Section and it is not clear whether the phrase "with specialization in Clinical Pharmacology or Micro-biology" is to be read only with words Medicine or with the degree in Pharmacy, a degree in Pharmaceutical Sciences or a degree in Medicine. However, the task of this Court has been made easier in view of the judgment rendered by the Apex Court in **Bhagwan Singh and another vs. State of Punjab and others : (1999) 9 SCC 573**, wherein Rule 50A was under consideration. The said Rule reads as follows:-

"50A Qualification of a Controlling Authority. — (1) No person shall be qualified to be a Controlling Authority under the Act unless—

(i) he is a graduate in Pharmacy or Pharmaceutical Chemistry or in Medicine with specialisation in Clinical Pharmacology or Microbiology from a University established in India by law; and

(ii) he has experience in the manufacture or testing of drugs or enforcement of the provisions of the Act for a minimum period of five years:

Provided that the requirements as to the academic qualification shall not apply to those Inspectors and the Government Analysts who were holding those positions on the 12th day of April, 1989."

5. The language of Clause-I of sub-Rule (i) of Rule 50A is identical to the language of Rule 49 and there also the words used are identical. Dealing with these words, the Apex Court held as follows:-

"6. ...We have, however, to read the academic qualification prescribed in its entirety. The first part prescribes only the qualification of a graduate degree in Pharmacy or Pharmaceutical Chemistry. In the alternative, a graduate degree in Medicine with specialisation in Clinical Pharmacology is prescribed. Therefore, a superspeciality qualification is not contemplated in this context."

6. It is contended by Mr. J. Majumder, learned counsel that this was not the question before the Apex Court and he submits that we can reconsider this question because before the Apex Court, the issue involved was whether a doctor, who possessed a degree of M.D. in Pharmacology was required to have any specialization thereafter. Mr. Majumder is right that directly the question which was before the Supreme Court is not the same which is before us. However, while dealing with this question, the Supreme Court has interpreted Rule 50A, which has identical language and the interpretation given by the Apex Court is absolutely clear that the first part prescribes only qualification of Graduate degree in Pharmacy or Pharmaceutical Chemistry. Thereafter, the Apex Court has ended the sentence with a full stop and has further clarified that in the alternative if the person has a Graduate degree in Medicine then Specialization in Clinical Pharmacology is prescribed.

7. In view of the judgment rendered in ***Bhagwan Singh's (supra)*** case, we find that the stand taken by the respondents that the qualifications of specialization in Clinical Pharmacology or Micro-biology are only required in case of those persons who have done their graduations in Medicine and not in respect of those persons, who are graduates in Pharmacology or Pharmaceutical Sciences is a correct stand. Therefore we find no merit in this petition.

8. The writ petition is dismissed. No costs.

9. All interim orders stands vacated.

JUDGE

CHIEF JUSTICE

Sima