

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5275 of 2011

1. S.S.EH. Alternative and Naturopathy Yoga Science Medical College, through the Principal Dr. Dinesh Sahu, S/o Shri Pardeshi Ram Sahu, aged about 34 years, R/o village Dhamdha, Tehsil Dhamdha, District Durg, CG

---- Petitioner

Versus

1. State of Chhattisgarh through the Collector, District Durg, CG
2. The Sub Divisional Officer (R) Durg, District Durg CG
3. The Tahsildar, Dhamdha, District Durg, CG
4. Block Medical Officer, Tehsil Dhamdha, District Durg, CG

----- Respondents

For Petitioner.	-	Shri Ashish Surana, Advocate.
For Respondents	-	Shri Arun Sao, Dy. AG.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

16/09/2015

The petitioner – an educational institution situate at village Dhamdha, Tehsil & District Durg is imparting education in the courses of Alternative Medicine from Naturopathy and Yoga recognized by the Indian Board of Alternative Medicine registered by the Government of West Bengal under Act XXVI of 1961 based on the Central Government Act XXI of 1860 and affiliated by the Open International University for Complimentary Medicine (Medicina Alternativa).

2. Case of the petitioner institution is that it admitted 25 students including one Umesh Soni who was enrolled in the course of Naturopathy. Said Umesh Soni was later expelled by the Institution and on the complaint

made by him in the Jandarshan Programme in CM House on 16.9.2010 a so-called inquiry as directed by the Collector was conducted by Block Medical Officer, Dhamdha behind the back of the petitioner who gave his report Annexure R-1 stating that the petitioner institution was being run without approval of the State Government. Based on the report submitted by the Block Medical Officer, on 4.8.2011 the Collector directed the SDO Durg to go through the report submitted by the Block Medical Officer and take stringent action against the petitioner institution including sealing of entire premises of the petitioner. Pursuant to the order passed by the Collector, on 8.8.2011 the Tehsildar, Dhamdha directed the Block Medical Officer and Station House Officer, Dhamdha for sealing the petitioner's premises on 11.8.2011 and accordingly on that day (11.8.2011) the premises of the petitioner was sealed by making *Panchnama* (Annexure P-6). In this petition the petitioner has challenged the order of the Tehsildar and the *Panchnama* prepared for sealing its premises.

3. Counsel for the petitioner submits that on 11.8.2011 the rented premises of the petitioner was sealed and for that the petitioner is finding it difficult to survive. He submits that under the law no premises can be sealed in the manner as has been done by the authorities in the case in hand preventing the petitioner from his lawful authority of using the premises. According to the petitioner's counsel the petitioner is entitled to receive exemplary compensation from the authorities for illegally sealing its premises and not passing any order against it. According to him, on 3 / 4.8.2011 the Collector has already written a letter to the Director, Health Services, for taking appropriate steps against the petitioner but till date no order has been passed by the Director. He submits that act of the respondents in harassing the petitioner is illegal and in violation of the fundamental rights guaranteed in the constitution.

4. In the return it has been stated that as the petitioner was running the institution without prior permission of the State Government, inquiry was allegedly conducted against it and sealing of the premises was its consequence.

5. Counsel for the parties submit that as no final order has been passed by the Director, Health Services, a direction can be issued to the Director to pass the order in the case of the petitioner in accordance with law within some time frame.

6. Counsel for the petitioner submits that at least the lock put in the premises of the petitioner – institution be opened and the petitioner undertakes that he would not use the said premises for running the institution till the matter is decided by the Director. He submits that if the premises which is lying idle for last four years is unlocked, he would be able to maintain the same and it would give satisfaction to the landlord that he would not be deprived of his property.

7. Considering the submissions of the parties this Court feels it proper and in the interest of justice to dispose of this petition with a direction to the Director, Health Services, Chhattisgarh to decide the complaint made by the Collector against the petitioner – institution by letter dated 3/4.8.2011. Director would be under obligation to give proper opportunity to the petitioner to explain its case and after complying the principle of natural justice would pass the order within two months from the date of receipt of this order.

8. It is made clear that the Director Health Services, Chhattisgarh will not be influenced by any correspondence made from any office and would independently decide the case on its own merits. On undertaking given by the petitioner before the Collector, Durg within two weeks from today that it would not use the premises for running the institution till the decision of the Director, the lock put on the said premises shall be opened forthwith and the

Revenue Authorities shall not create any hurdle in the use of the premises by the petitioner for some other purpose.

9. With the aforesaid observations, the petition is disposed of.

Sd/-

(Pritinker Diwaker)

Judge

Jyotishi