

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 511 of 2016**

- Dr. Bijaya Ketan Sahu, S/o Shri Sahdev Sahu, aged about 40 years, At/Po.- Danga, Via-Bardol, District Bargarh, R/o Village-Padhanpali, Post – Resham, P.S. Bheden, District – Bargarh (Odisha)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through its Secretary, Department of Health & Family Welfare, Mahanadi Bhawan, Naya Raipur, Administrative Block-A.D.-1-1, New Secretariat Building, P.S.-Rakhi, District Raipur (C.G.)
2. The Director, Ayurved, Yoga and Naturopathy, Unani Siddha & Homeopathy (Ayush) Directorate, G.E. Road, P.S. Civil Line, Raipur (C.G.)
3. Chhattisgarh Public Service Commission, Through its Secretary, Shankar Nagar Road, Raipur, District-Raipur (C.G.)
4. Central Council of Indian Medicine A Statutory Body Under IMCC Act 1970, Ministry of Ayush Government of India, New Delhi, Janakpuri, New Delhi
5. Dr. Balendra Singh, aged 37 years, S/o Shri Manroop Singh, R/o H.No. 12/221, Near Shri Ram School, Benisagar, Panna (M.P.), Presently R/o PWD LQ-1, Government Ayurved College Campus, G.E. Road Raipur, District – Raipur (C.G.)

---- Respondents

For Petitioner : Shri J.N. Nande, Advocate.

For Respondents/State : Shri Arun Sao, Dy. Advocate General.

For Respondent No.3/PSC : Shri Soumya Rai, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****23/02/2016**

Heard.

(1) The petitioner seeks to challenge the order dated 30.12.2015 passed by respondent No. 3/PSC whereby the respondent No. 5 has been selected on the post of Reader (Surgery) for the Health and Family Welfare Department.

(2) Counsel for the petitioner submits that respondent No. 5 has been selected on the post of Reader (Surgery) but he is disqualified for holding that post as he is registered in the State of Madhya Pradesh, Central Council of Indian Medicine and also registered in *Chhattisgarh Ayurvedic Tatha Yunani Chikitsa Padhhati Avam Prakratic Chikitsa Board, Raipur*.

(3) I have heard counsel for the petitioner and perused the material available in the record with utmost circumspection.

(4) The above-stated recruitment has been conducted in accordance with Madhya Pradesh Public Health (Indian System of Medicine and Homoeopathy) (Gazetted) Service Recruitment Rules, 1987 (hereinafter referred to as 'Rules, 1987'), and the petitioner has been found eligible & suitable for the post of Reader (Surgery) by the Public Service Commission but there is no such disqualification prescribed in the recruitment Rules or any other Act that on such registration in two States, candidate will be disqualified for the post of Reader (Surgery). Disqualification has to be prescribed specifically either in the Act or under the Rules and disqualification must have the legislative sanction. In the case in hand no such disqualification under the statute has

been brought to the notice of the Court except the provisions contained in Section 5(2) of the Indian Medicine Central Council Act, 1970, according to which no person may at the same time serve as a member in more than one capacity, which in no way is a disqualification from selecting on the post of Reader (Surgery), as such, petitioner has failed to challenge the selection of respondent No. 5 on the post of Reader (Surgery) competently, thus, the writ petition deserves to be and is accordingly dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-