

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.502 of 2018**

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Santosh Kumar Son of Late Jai Mangal Singh Resident of Village Tehta,  
Mohalla - Razaiyan, P.S. Makhdumpur, District Jehanabad, Bihar.

... .. Petitioner/s

Versus

1. The Union of India
2. The Union of India through Secretary of Ministry of AYUSH, Government of India, New Delhi.
3. The Director AYUSH 'AYUSH' Bhawan INA Government of India, New Delhi.
4. The Secretary Central Council of Homeopathy, 61-65 Institutional Area, Janakpuri, New Delhi.
5. The Principal Secretary, Department of Health, Government of Bihar, Vikas Bhawan, Patna.
6. The Special Secretary, Department of Health, Government of Bihar, Patna.
7. The Principal Secretary, Vigilance, Government of Bihar, Patna.
8. The Director Homeopathic, Government of Bihar, Patna.
9. The Registrar, Bihar State Homeopathy Board, Kadamkuan, Patna.
10. The Director, G.D. Memorial Homeopathic College, East Ram Krishan Nagar, Patna.
11. The Principal, G.D. Memorial Homeopathy College, East Ram Krishna Nagar, Patna.
12. Registrar, B.R. Ambedakar University, Muzaffarpur, Bihar

... .. Respondent/s

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**Appearance :**

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|----------------------------------|---|-----------------------------------------------------------------------------|
| For the Petitioner/s             | : | Mr. Md. Kamaluddin, Adv.<br>Mr. Shashi Kumar, Adv.                          |
| For the Respondent/s             | : | Mr. S.D. Yadav- AAG-9<br>Mr. Nagindra Kumar, Adv.                           |
| For the Union of India           | : | Mr. S.D. Sanjay, Addl. Solicitor General<br>Ms. Poonam Kumari Singh, C.G.C. |
| For the respondent No. 10 & 11:  |   | Mr. Niranjana Kumar, Adv.                                                   |
| For the respondent No.4 :        |   | Mr. Sanjeet Kumar, Adv.                                                     |
| For the B.R.A. Bihar University: |   | Mr. Vikash Ratan Bharti, Adv.                                               |

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**



**Date : 05-03-2019**

Heard Mr. Shashi Kumar, learned counsel for the petitioner, Mr. S.D. Sanjay, learned Additional Solicitor General assisted by Ms. Poonam Singh, for the Union of India, Mr. S.D. Yadav, A.A.G.9, Mr. Sanjeet Kumar for the Central Council for Homeopathy, Mr. Niranjana Kumar Singh for the respondent Nos. 10 and 11 whose existence is put to challenge in this public interest litigation not only on its establishment but also on statutory compliance and Mr. Praveen Kumar for the respondent No.9.

The petitioner claiming to be a public spirited citizen has filed this writ petition seeking a direction for instituting a high level enquiry preferably by a Committee headed by a retired High Court Judge to inquire into the misdeeds of the Director and Principal of the G.D. Memorial Homeopathy College, East Ramkrishana Nagar, Patna as also the role of Central Council of Homeopathy because according to the petitioner, the College neither fulfills the statutory requirement nor the Central Government or the Central Council for Homeopathy has discharged their obligations in satisfying themselves on the statutory compliance by the said college. This Court taking note of the allegations made, in its order dated 10.1.2019 required the



parties contesting to file their affidavits and which has since been filed and we would be briefly discussing the stand of the respondents on the issue raised and contested.

The counter affidavit of the respondent filed on behalf of the respondent Nos. 5, 6 and 8 i.e the Principal Secretary, Department of Health and the Director, Homeopathy registering appearance through the Additional Advocate General No.9 mentions that necessary information has been sought from the Ministry of 'AYUSH' as well as from the Central Council of Homeopathy, New Delhi and in case anything adverse is received that they would proceed accordingly against the respondent Nos. 9 and 10.

The counter affidavit filed on behalf of the respondent Central Council of Homeopathy the respondent no. 4 at paragraphs 16 to 18 endorses the recommendation on the permission granted to the College on establishment as well as for admission of the students which paragraphs are reproduced herein below for ready reference:

"16. It is stated that pursuant to the directions received from the respondent no.1 vide letter No. R.13040/25/2016-HD(Tech) Part-2 dated 24.5.2018, answering respondent Council inspected the Petitioner's College and attached hospital on 30.6.2018 and report of inspection was received by respondent Council. Subsequently the Executive Committee of Board of Governors considered the said



inspection report in its meeting held on 13.7.2018 and recommended as under:-

**"Recommended for allowing admission in I-BHMS with the intake capacity allowed earlier and MD(Hom) courses (Organon-06, Materia Medica-06, Repertory-06, Pharmacy-06, Practice of Medicine-06, Paediatrics-06 and Psychiatry-06) for the session 2018-19.**

Answering Respondent Council sent its recommendation to respondent no.1 vide its letter 19.7.2018.

Copies of letters dated 24.5.2018 and 19.7.2018 are annexed herewith and marked as **Annexure 'R4/9 "Series"**

17. That it is stated that the Ministry of AYUSH, Govt. of India on considering the recommendation of Central Council of Homeopathy granted permission to the college in question to continuing admission in different courses (including P.G. Courses in Homeopathy) for the academic session 2018-19 subject to the condition that the college in question shall fulfill the requirements as mentioned in the letter dated 07.09.2018, by 31.12.2018, which shall be verified during the next academic year i.e, 2018-2019.

A photo copy of letter dated 07.09.2018 is annexed herewith and marked as **Annexure-R4/10** to this affidavit.

18. That it is stated that as is evident from the averment made in the preceding paragraphs, the college in question has been granted permission for admitting students in M.D.(Hom) Courses right from the academic sessions 2002-03 till the academic sessions 2018-19."

A short reply is filed on behalf of the Ministry of 'AYUSH', Government of India and at paragraph 7 it is mentioned that the permission was already granted to the



College in question for starting the P.G. Course in the year 2002 and which has been renewed for the Academic year 2016-17 to 2018-19. The stand of the Ministry at paragraphs 7 and 8 runs under:

"7. That in the present case, the permission for starting the PG course was already granted by the Respondent No.4 Central Council of Homeopathy to the afore-mentioned college in the year 2002. It is worth to mention herein that there were no provisions for renewing the permission already granted. However, by virtue of the enactment of the Homeopathy Central Council(Minimum Standards of Education)Regulation 2013 hereinafter referred as the "HCC(MSR), 2013" in short), it was made mandatory that every college shall apply for renewal of the permission in every academic year. The HCC(MSR), 2013 has also provided the general amnesty to the Homeopathic Medical College till the academic year 2015-16. Therefore, Respondents Ministry of AYUSH is only renewing the permission of G.D. Memorial Homeopathic Medical College from the academic year 2016-17, 2017-18 and 2018-19. The Respondents Ministry of AYUSH has granted the conditional permission to G.D. Memorial Homeopathic Medical College for the academic year 2016-17, 2017-18 and 2018-2019.

8. That on the basis of the submissions forwarded by the answering Respondents in the preceding paragraphs, the prayers made by the Petitioner in Writ Petition do not deserve any indulgence of this Hon'ble Court. The present Writ Petition thus, deserves to be dismissed *in limine* by this Hon'ble Court."

An exhaustive counter affidavit is filed on behalf of the College and Mr. Niranjana Kumar Singh learned counsel appearing on their behalf in reference thereto has submitted that



not only the petitioner fulfills every statutory requirement rather also possesses the necessary approvals from the concerned statutory authorities and despite such position the College has been subjected to such kind of mud sling by motivated persons. He refers to an order passed in C.W.J.C. No. 12207 of 2007 to submit that the institute has been defending itself right since its establishment and a mud sling has not lessened.

Mr. Niranjana Kumar Singh further submits that despite the endorsement given by the statutory authorities to the college on the statutory compliance yet an unnecessary enquiry has been instituted by the State Government which has no sanction of law.

In our opinion, in view of the position explained by the statutory authorities noted above, it would be advisable for the State to ponder over the issue whether or not they yet need to pursue the matter.

We have heard learned counsel for the parties and we have perused the records especially the counter affidavit filed on behalf of the State, the Central Council of Homeopathy and the Ministry of 'AYUSH', Government of India, each of which endorses the establishment of the College on its statutory compliance as well as on the necessary permissions under which



it is functioning and in which circumstances the writ petition is held thoroughly misconceived and motivated and is dismissed accordingly.

(Jyoti Saran, J)

( Arvind Srivastava, J)

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 09.04.2019 |
| Transmission Date | NA         |

