

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 4396 of 2019**

1. Dr. Mukesh Kumar Tiwary S/o Shyam Kishore Tiwary Aged About 29 Years Occupation Pg Student Govt. Ayurved College, G.E. Road Near Anupam Garden, Raipur, Chhattisgarh.
2. Dr. Deepak Kumar Sahu S/o W. L. Sahu Aged About 31 Years Occupation Pg Scholar, Govt. Ayurved College, G.E. Road, Near Anupam Garden, Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District- Raipur, Chhattisgarh
2. Secretary Department Of Finance, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District- Raipur, Chhattisgarh.
3. The Director Ayurvedic, Yoga And Prakritik Chikitsa Unani Siddha And Homeopathy (Ayush), Raipur, Chhattisgarh.
4. The Principal Govt. Ayurved College, G.E. Road, Near Anupam Garden, Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Dhani Ram Patel, Advocate
For State	:	Mr. V. R. Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/12/2019**

1. The claim of the petitioners in the present writ petition is for an appropriate direction to consider the case of the petitioners for providing stipend at par with the Allopathy Medical Science Post Graduate Students.
2. The contention of the petitioners is that the petitioners are students undertaking post-graduate course in Ayurveda. The post-graduation course of Ayurveda is governed by the regulations framed by the Central Government in exercise of powers conferred under the

Indian Medical Central Council Act of 1970. Under the said Act of 1970, it has been specifically held that the stipend and contingency payable to the postgraduate students shall be at the rate prevailing in the State for other medical post-graduate students. The admission to the post-graduate course in both the pathies are based on competitive examinations. The petitioners have been duly selected after undergoing the said selection process.

3. The Regulations governing the post-graduate students i.e. the Regulations of 2016 framed under the Indian Medical Central Council Act also envisages the provisions of providing the facilities to the post-graduate students at par with the benefits that are being given to the post-graduate students of other medical science.
4. In view of the same, there does not seem to be any doubt left for this Court to reach to the conclusion that the petitioners herein also would be entitled for treatment at par with the post-graduate students who are undertaking post-graduation course in the Allopathy Medical Science.
5. A similar issue came up for hearing before this Court in **WPC No. 1646 of 2012 (Manish Kumar Patel & others v. State of Chhattisgarh & others)**, which stood decided on 12.08.2013. This High Court in the said judgment in paragraphs No. 5 & 8 held as under:

“5. Grant of stipend to the petitioners who are pursuing Ayurveda Medicines Post-graduate courses is governed by statutory regulations framed by the Central Council of Indian Medicine in exercise of powers conferred under Section 36 of the Act, 1970. The relevant regulations have been placed on record by the petitioners at Annexure P/11 collectively. Vide notification dated 16.03.2012, the Central Council of Indian Medicine with the previous sanction of the Central Government, in exercise of powers conferred under Section 36 of the Act, 1970 promulgated regulations known as Indian

Medicine Central Council (Post-Graduate Ayurveda Education) Regulations, 2012 (for short, "Regulations, 2012"). The Regulations, 2012 seeks to make exhaustive provisions with regard to Post-graduate Ayurveda Education. In addition to regulating the admission, examinations, the Regulations, 2012 specifically provide for facilities for Post-graduate students. Regulation 14 being relevant is reproduced herein below:-

"14. Facilities for post-graduate students:- The stipend and contingency shall be provided at the rates prevailing in the State for other medical post-graduate students."

The aforesaid provision unmistakably shows that stipend and contingency which is required to be provided to the Post-graduate students has to be paid at the rates prevailing in the State for other medical post-graduate students. The aforesaid provision clearly reflects upon the statutory scheme framed by the Council, that is, to bring about uniformity in the matter of grant of stipend and contingency to the students pursuing post-graduate courses. The object of the rule is that Post-graduate Ayurveda students should get that very stipend and contingency which is being paid to post-graduate students of other post-graduate medical courses. This obviously includes Allopathy Medicines Post-graduate courses as well. Therefore, statutory mandate is clear to the effect that a student of Ayurveda Post-graduate courses will be extended that stipend which is being paid at the rates which is prevailing in the State for Allopathy Post-graduate students.

8. In the result, this petition deserves to be and is hereby allowed. The impugned order (Annexure P/1) and decisions connected therewith are declared illegal and quashed. The respondents are directed to make payment of stipend to the petitioners at the same rate which is being paid to post-graduate students of Allopathy in accordance with the provisions contained in Regulations, 2012. No costs."

6. Subsequently, a similar issue came up for hearing before the Madhya Pradesh High Court also and the Division Bench of the Madhya Pradesh High Court in **WP No. 6415 of 2015 (Dr. Vijay Kumar Tiwari v. State of Madhya Pradesh & others)** decided on **19.11.2019** referring to the provisions of the Act of 1970 and the regulations framed therein held as under:

"However, since the State has failed to establish that the students pursuing post graduate course in Ayurveda are of different class than that of students pursuing post graduate course in Allopathy, the State cannot be allowed to discriminate them for grant of stipend at par with the students pursuing postgraduate course in Allopathy.

Considering thus, we direct the State to treat the students pursuing Post Graduate in Ayurveda at par with the students pursuing Post Graduate Courses in Allopathy for the purpose of stipend and other benefits."

7. In view of the same, this Court is inclined to allow the present writ petition with a direction to the respondents to take appropriate steps

at the earliest, so far as the issue of granting stipend at par with the post-graduate students undertaking the Allopathy Medical Science course.

8. Let an appropriate decision be taken by the respondents at the earliest preferably within a period of 3 months from the date of receipt of the copy of this order.
9. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved