

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

279

**CRM-M-41682-2016 (O&M)
Date of Order: 16.10.2019**

Tarsem Singh

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deepak Bhardwaj, Advocate, for the petitioner.
Mr. Bhupender Beniwal, AAG, Punjab

ANIL KSHETARPAL, J(Oral)

Learned counsel for the petitioner contends that no criminal case is made out against the petitioner as the petitioner is a registered medical practitioner with Rajkiya Ayurvedic and Unani Chikitsa Parishad, Bihar, having done Vaid Visharad and therefore, entitled to practice allopathy.

As per the case of the prosecution, the petitioner was found to be in conscious possession of large quantity of allopathy drugs.

In response to the notice, reply has been filed along with a communication from the Board of Ayurvedic and Unani System of Medicine, Punjab, informing that the petitioner cannot practice in allopathy medicine and he is not even registered to practice in the State of Punjab.

Learned counsel for the petitioner submits that the petitioner being qualified from Rajkiya Ayurvedic and Unani Chikitsa Parishad, Bihar, is entitled to practice in allopathy medicine.

On the other hand, learned counsel for the State while relying upon the judgment passed by the Hon'ble Supreme Court in the case of

Rajasthan Pradesh V.S. Sardarshahar and another vs. Union of India

and others(Civil Appeal No.5324 of 2007, decided on 01.06.2010) contends that the persons who have acquired the certificate, degree or diploma from Hindi Sahitya Sammelan Prayag after 1967 are not entitled to practice in medicine. Operative part of the judgment passed in paragraph 45 is extracted as under:-

“45. In view of the above, Civil Appeal arising out of SLP(C) No.21043 of 2008 is allowed and it is held that a person who acquired the certificate, degree or diploma from Hindi Sahitya Sammelan Prayag after 1967 is not eligible to indulge in any kind of a medical practice. All other Civil Appeals are dismissed. No Costs.”

Keeping in view the aforesaid facts, this Court is of the considered opinion that disputed questions of facts are involved and therefore, it would be more appropriate to relegate the petitioner to the remedy before the trial Court.

Disposed of accordingly.

October 16, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No