

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

CWP-22656-2018

Date of decision: 25.7.2019

Krishan Chand Goel

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Sunil Chadha, Sr. Advocate with
Mr.Sharad Mehta, Advocate for the petitioner

Mr.Vikrant Pamboo, DAG, Haryana

Mr.Gopal Sharma, Advocate for respondent No.3

Mr.Ramender Chauhan, Advocate for
Mr.SK Panwar, Advocate for respondent No.4.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for setting aside the letter dated 10/11.4.2018 (Annexure P-6) issued by respondent No.1, vide which the services of respondent No.4 as Registrar of the Haryana State Pharmacy Council have been extended till 31.3.2019.

Reply has been filed on behalf of respondent No.3 in the Court today. The same is taken on record.

Learned counsel for the petitioner states that as per the provisions of Section 26 of the Pharmacy Act, 1948 (for short 'the Act'), Pharmacy Council is required to seek approval/ sanction from the State

Govt. to appoint a regular Registrar-cum- Secretary of the Council and after doing so, the Council is to initiate the process of selecting a suitable/ qualified candidate as Registrar and after that the shortlisted names are sent to the Govt. to accord its approval/ sanction for the appointment as Registrar of the Council. But in the present case, respondent No.4 was straightway appointed as Registrar of the Council on 6.11.2015 for a period of 89 days and it was purely temporary as a stop gap arrangement. No approval / sanction has been received from the Govt. Therefore the appointment of respondent No.4 as Registrar of the Council is in utter violation of Section 26 of the Act. It is further contended that respondent No.4 did not possess the required qualification as the certificate of 10+2 issued to respondent No.4 was not from a recognized institute as per the information (Annexure P-5) supplied by Association of Indian Universities.

On the other hand, learned counsel for respondent No.3 submits that the petitioner does not have any locus standi to file the present writ petition challenging the appointment of respondent No.4, as he is neither aggrieved by impugned order dated 10/11.4.2018 (Annexure P-6) nor is having any interest in the appointment of respondent No.4 as Registrar. It is further contended that for the proper and effective working of the Council, the Govt. of Haryana appointed respondent No.4 as Registrar on 6.11.2015 initially for a period of 89 days and the said decision was duly approved by the Executive committee of the Council in its meeting dated 24.12.2015.

After the appointment of respondent No.4, the decision was sent to the Govt

for approval and the matter is still pending with the Govt. A reminder dated 29.11.2018 (Annexure R-3/9) was also sent to the Govt. However, the Govt. has extended the services of respondent No.4 upto 31.3.2020 vide order dated 18/20.2.2019.

Heard.

It is to be noticed that a complete procedure has been prescribed under Section 26 of the Act for appointment of a person as Registrar of the Council.

For ready reference, Section 26 is reproduced, thus:-

“26. Staff, remuneration and allowances.—The State Council may, with the previous sanction of the State Government,—

(a) appoint a Registrar who shall also act as Secretary and, if so decided by the State Council, Treasurer, of the State Council;

(b) appoint such other officers and servants as may be required to enable the State Council to carry out its functions under this Act;

(c) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants of the State Council;

(d) fix the rates of allowances payable to members of the State Council: Provided that for the first four years from the first constitution of the State Council, the Registrar shall be a person appointed by the State Government,

who shall hold office during the pleasure of the State Government.”

A perusal of the above provisions shows that with the previous sanction of the Govt., a person can be appointed as Registrar by the Council. For that a procedure has to be followed. Needless to say the procedure should be transparent to all the candidates. However, the facts of the present case go to show that the provision has been defeated by the Council by firstly appointing respondent No.4 for 89 days purely on temporary basis as a stop gap arrangements and thereafter by giving various extensions. In this manner, a back door entry has been made to accommodate respondent No.4 which is not as per the mandate of the Constitution. A public appointment cannot be made in such a way, as the rights of the meritorious candidates, who are standing in the queue and waiting for their turn get defeated.

If the law requires a thing to be done in a particular manner, than it has to be done in the manner prescribed and in no other way. In the present case, the manner of appointment of Registrar of Pharmacy Council is laid down in Section 26 of the Act. There is no explanation on record to deviate from the same in the present case. Therefore, it is essential that the statutory procedure prescribed for the appointment of Registrar is scrupulously followed. The statutory procedure for appointment of Registrar shall therefore have to be complied with notwithstanding deviations made in the past.

In this view of the matter, the Court is of the considered

opinion that impugned order dated 10/11.4.2018 (Annexure P-6) is contrary to the provisions of Section 26 of the Act and is clearly unsustainable. It is accordingly set aside and quashed. Consequently, the present writ petition is allowed.

25.7.2019
gsv

[**JITENDRA CHAUHAN**]
JUDGE

Whether speaking / reasoned?	Yes	/	No
Whether reportable?	Yes	/	No