

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8870 of 2020

1. The Bihar State Homeopathic Medical Officers Association, Patna through its President Dr. Yogendra Prasad Mandal, aged about 66 Years, male, Son of Shital Prasad Mandal, Resident of Kamaldah Road, Navneet Nagar, Patna City, Police Station- Mehadiganj, District - Patna.
2. The Bihar State Homeopathic Medical Officers Association, Patna through its Secretary Dr. Haroon Rashid Khan, aged about 62 years, male, Son of Khaliur Rahman Nadvi, Resident of Ward No. 3, Near F.C.I., Khalilpura Road West, Phulwari Sharif, Police Station- Phulwari Sharif, District - Patna.
3. Dr. Jagdish Choudhary, Son of Yogendra Choudhary, Resident of Village and Post Office - Fateha Bachhawara, Police Station- Bachhawara, District - Begusarai.
4. Dr. Chandan, Son of Dr. Ram Bilas, Resident of Sheikhpura Patel Path (Mazar Gali), B.V. College, Rukunpura, Police Station- Shastri Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health and Family Welfare (AYUSH), Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
3. The Special Secretary-cum-Executive Director, Department of Health (AYUSH), Vikash Bhawan, New Secretariate, Patna.
4. The Director -in-Chief (AYUSH), Vikash Bhawan, New Secretariate, Patna.
5. The Principal Secretary, General and Administrative Department, Government of Bihar, Patna.
6. The President, Bihar State Technical Service Commission, 19 Harding Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gopal Govind Mishra, Advocate
For the Respondent/s : Mr. S.D.Yadav, AAG 9

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-12-2020

Petitioners have prayed for the following relief(s):-



(i) For direction to the Principal Secretary, Health Department, Government of Bihar to decide the pending representation of the petitioners submitted vide letter No. 09 dated 20.11.2019 to review the resolution No. 25 dated 13.01.1998 regarding proportionate distribution of post of Ayush Doctor to be filled up in the State Government in the ratio of Ayurvedic-40%, Homeopathic-40% and Unani-20% in the light of number of medical practitioner registered in Bihar state Ayurvedic and Unani medical Council and Bihar State Homoeopathic Medical Board under the Health Department of Bihar.

(ii) Further issuance of writ in the nature of mandamus for direction to the respondent authorities to Consider and decide the ratio of distribution of post/seats of Ayush Doctor i.e. Ayurvedic, Homeopathic and Unani in proportionately in the ratio of 40:40:20 in the State of Bihar in the light of number of medical practitioner registered in Bihar state Ayurvedic and Unani medical Council and Bihar State Homoeopathic Medical Board under the Health Department of Bihar as the number of Ayurvedic Doctors 33845, Homeopathy Doctors 33426 and Unani Doctors 5150 on the basis of RTI information supplied by both by the council in year 2019 and 2020.

(iii) For direction to the Health Department to decide the representation of the petitioners submitted vide letter No. 09 dated 20.11.2019 regarding proportionate share of seat distribution in the light of number of registered medical practitioner in the Ayush System in the Health Department and the decision of



the Health Department should be implemented in Advertisement No. 04/2020 to 09/2020 issued by the Bihar Technical Service Commission, Government of Bihar under signature of the Secretary, Bihar Technical Service Commissioner, Patna dated 28.09.2020.

(iv) And/or any other relief/reliefs admissible under the law in the light of factual profile of this case in the interest of justice and law of equity before the law.”

Learned counsel for the State opposes the petition stating that the petition is misconceived; raises disputed question of fact; is not in public interest; and that the issue can be best resolved at the Government level by the appropriate authorities.

After the matter was heard for some time, learned counsel for the petitioners submits that petitioners shall be content if a direction is issued to the respondent no. 2, namely, The Principal Secretary, Department of Health and Family Welfare (AYUSH), Government of Bihar, Vikash Vhawan, New Secretariat, Patna, to consider and decide the representation which the petitioners shall be filing afresh for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners within a period of two weeks, the authority concerned shall consider and dispose it



of expeditiously and preferably within a period of two months from the date of its filing along with a copy of this order.

Equally, liberty is reserved to the petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioners takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioners to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid



terms.

Interlocutory Application(s), if any, also stands
disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2020
Transmission Date	

