

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPIL No. 9 of 2021

- Aayush Bhatia S/o Shri S.K. Bhatia, Aged About 27 Years R/o Flat No. 101, Block F-3, VIP Karishna Apartments, Shankar Nagar, Raipur, District-Raipur, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Principal Secretary, Ministry Of Health And Family Welfare Department, New Delhi
2. National Medical Commission Through The Chairman, Pocket-14, Sector- 8, Dwarka Phase- 1, New Delhi- 110077 India
3. Department Of Pharmaceuticals Through Its Secretary, Ministry Of Chemical And Fertilizers, Government Of India, Shastri Bhawan, New Delhi- 110001
4. The State Of Chhattisgarh Through Chief Secretary Mahanadi Bhawan, Mantralaya, Naya Raipur, 492002
5. Department Of Health And Family Welfare And Medical Education Government Of Chhattisgarh Through Addl. Chief Secretary, Mantralaya Mahanadi Bhavan, Nava Raipur, Atal Nagar Chhattisgarh
6. Chhattisgarh State Medical Council Through Its President, Office Of The Director, Health Services 1st Floor, Azad Chowk Rd Near Nagar Nigam Ayurvedic Hospital, Kankalipara, Raipur, Chhattisgarh---- **Respondent**

For Petitioner in person
For Respondent /UOI

Mr. Aayush Bhatia,
Mr. Tushar Dhar Diwan, Advocate on
behalf of Mr. Ramakant Mishra,
Assistant Solicitor General

For Respondent No.3
For Respondents 4 to 6/State

Mr. R.S. Marhas, Advocate
Mr. Chandresh Shrivastava, Dy. AG

**DB.: Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J.
Hon'ble Mr. Justice N.K. Chandravanshi**

Order On Board by Prashant Kumar Mishra, Ag. C.J.

10/9/2021

1. Heard.
2. In this PIL, the petitioner has prayed for a direction to the respondents to ensure strict compliance of Clause 1.5 of the Statutory Regulations of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 amended vide Notification dated 16.9.2016 published in the Gazette of India dated 8th of October 2016, which mandates every Physician to prescribe drugs with generic names legibly and preferably in capital letters and for taking action against such Medical Practitioners with regard to non-compliance thereof. The petitioner has also prayed for a direction to ensure the availability of generic medicines in Primary Health Care Centers, Community Health Care Centres, Civil Hospitals, District Hospitals and Government Hospitals/Dental Clinic Hospitals as well as Janaushadhi stores along with provision of availability of same in a separate shelf/counter in Pharma shops/clinics.
3. The amendment in the Regulation known as "Indian Medical Council (Professional Conduct, Etiquette and Ethics) (Amendment) Regulations, 2016 – Part -I", Clause 1.5 in Chapter 1-B-Duties and Responsibility of the Physician in general, has

been substituted and the said part of the Regulation now provides that ***“Every physician should prescribe drugs with generic names legibly and preferably in capital letters and he/she shall ensure that there is a rational prescription and use of drugs”.***

4. Once the above duties and responsibilities of a Physician have been inserted in the Regulation, every Physician is required to follow the same and a writ cannot be issued to monitor the prescription issued by each and every Physician in the State who are in thousands of numbers. Likewise, it is the duty of the concerned Department of the State Government to provide generic medicines in the Health Centres.
5. If the petitioner desires that the State Government should provide generic drugs/medicines, he would be at liberty to make a representation before the State Government. For this also, writ cannot be issued for the simple reason that supply and availability of medicine be it general medicine or generic medicine depends on several factors which includes financial aspects of the Government Budget. Moreover, the issue will still remain as to whether any particular drug licensee or medical shops would sell generic medicine or not or a particular patient would eventually be interested in buying generic medicine rather than branded medicine, which depends upon choice of an individual and no person can be forced to buy the generic medicine or branded medicine.

6. In view of the above, the writ petition is dismissed subject to the observation and liberty allowed in favour of the petitioner to move a representation.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(N.K. Chandravanshi)
Judge