

LPA-1465-2019

Date of Decision: 24.3.2021

Vineet and others

..... Appellants

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Vivek Aggarwal, Advocate, for the petitioners.
Mr. Lokesh Sinhal, Additional Advocate General, Haryana.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment of learned Single Bench dismissing the writ petition filed by the petitioner therein. In the writ petition the claim raised was that by advertisement dated 26.7.2019 the State Health Society (Haryana) had invited applications from BAMS Degree Holders for filling up 328 posts of Mid Level Health Providers-cum-Community Health Officers on contract basis under the National Health Mission Scheme for providing Comprehensive Primary Health Care services at Sub Centre level 'Health and Wellness Centres' upgraded under Ayushman Bharat in 11 districts in financial year 2019-20.

2. The claim raised by learned counsel for the appellant-petitioner in the writ petition was that he was a graduate in Homeopathy (Bachelor of Homeopathic Medicine & Surgery) and therefore, the action of the respondents in excluding the doctors like him was illegal since he was also covered under the umbrella of AYUSH.

3. Learned Single Bench held that even if the appellant-petitioner was covered under the umbrella of AYUSH, it would not take away the

right of the employer to decide which category of persons had to be called and therefore, held that inclusion of Homeopathy doctors could not be held per se illegal. Hence, the present appeal.

4. Learned counsel for the appellants has argued that in the State of Assam, Homeopathy doctors have been held eligible but that has been countered by way of affidavit stating that was under the AYUSH Scheme and not under the National Health Mission Scheme. The second contention of learned counsel for the appellants is that the Patna High Court had allowed a similar writ petition filed by a Homeopathy candidate but learned counsel for the respondents has countered by saying that that judgment proceeded on a concession by the State and did not examine the merits of the case and thus the cases of Patna High Court and Assam would have no applicability in the present case. Next argument of learned counsel for the appellants is that in the latest advertisement even graduates of B.Sc. Nursing have been held to be eligible and therefore, the exclusion of Homeopathy doctors is per se arbitrary and illegal. On the other hand, stand of learned counsel for the respondents is that this is a scheme by the Union Government and different advisories of the Union Government have reiterated that Homeopathy practitioners are not suitable for these posts for the reason that in this discipline there is limited focus on general surgical procedure, management of medical emergencies and training critical for management of emergency cases including burns and trauma and also it only focuses on pharmacology of Homeopathic medicines and focus on pharmacology of allopathic medicines is completely missing. As per him, it is on the basis of these advisories that the respondents have excluded

Homeopathy doctors.

5. In our opinion, no fault can be found with the judgment of learned Single Bench.

6. Dismissed accordingly.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

24.3.2021
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No