

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2416 of 2022

1. Ashok Kumar S/o Bhogendra Ram, Resident of Village- Naurauli Sen, Post-Bhinda, P.S.- Mushahari, District- Muzaffarpur.
2. Uday Kumar S/o Devendra Prasad Singh Resident of Village- Mehta Colony, Malighat, P.S.- Mithanpura, District- Muzaffarpur.
3. Md. Husnain Ahmad, S/o Md. Noor Hasan Khan, Resident of Mohalla-Purab Sarai, Azad Colony, P.S.- Munger, District- Munger.

... .. Petitioner/s

Versus

1. Union of India through Secretary, Ministry of Ayush, Ayush Bhawan B Block, GPO Complex, New Delhi.
2. Secretary, Ministry of Ayush, Ayush Bhawan, B Block, GPO Complex, New Delhi.
3. Under Secretary, Ministry of Ayush, Ayush Bhawan, B Block, GPO Complex, New Delhi.
4. The Principal Secretary, Department of Health and Family Welfare, Bihar, Patna.
5. The Principal Secretary, General Administration Department, Bihar, Patna.
6. The Registrar, The Bihar State Council of Ayurvedic and Unani Medicine, K- 52, Hanuman Nagar, PO- Lohiya Nagar, Patna- 20.
7. The Registrar, National Commission for Indian System of Medicine, 61-65 Institutional Area, Janakpuri, New Delhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Baidya Nath Thakur, Advocate Mr. Shankar Kumar Thakur, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG) Mr. Ajay Behari Sinha (GA 8) Mr. Dipak Kumar, Advocate Mr. Sujeet Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-08-2022

On 23.02.2022, we had passed the following order:-

“ Learned counsel refers to and relies upon the

decision rendered by Hon'ble the Apex Court in the case of **Hukam Chand Vs. Union of India, reported in 1972(2)SCC 601.**

It is canvassed that the rules, as envisaged under the provisions of Section 35 of the Indian Medicine Central Council Act, 1970, was never ever placed before the House of Parliament.

Let a short affidavit, also dealing with this point, be filed by the respondents.

Pendency of the present petition shall not come in the way of the respondents in completing the selection process initiated in terms of advertisement. However, appointments made, if any, shall be subject to the outcome of the present petition.

List this case on 30.03.2022.”

On that date, we were not told that petitioner no.1, Ashok Kumar had in fact filed three petitions, similar in nature on the same cause of action which were registered as C.W.J.C. No.16847 of 2019, titled as Ashok Kumar Vs. Union of India & Ors., C.W.J.C. No.6972 of 2014, titled as Ashok Kumar Vs. the State of Bihar & Ors. and C.W.J.C. No.18270 of 2018, titled as Ashok Kumar Vs. Union of India & Ors.

On a specific grievance made by the learned ASG, we had directed listing of all these petitions together.

Today, when we perused the record, we noticed that in **C.W.J.C. No.18270 of 2018**, titled as titled as Ashok Kumar Vs. Union of India & Ors., petitioner has made the following

averments in paragraph No.26, which is reproduced as under:-

“26. That the petitioner has not earlier moved before this Hon’ble Court for the prayer made in para 1 of this application.

It is, therefore prayed that your lordships may graciously be pleased to admit this application, issue rule NISI, calling upon the respondents to show-cause as to why the reliefs sought for in this writ application be not granted and upon cause being shown, if any, make the rule absolute.

And/

Pass such order(s) as your lordships may deem fit and proper.”

In CWJC No.16847 of 2019, Ashok Kumar has made the following averment:-

“38. That the petitioner has not earlier moved before this Hon’ble Court for the prayer made in para 1 of this application.

It is, therefore prayed that your lordships may graciously be pleased to admit this application, issue rule NISI, calling upon the respondents to show-cause as to why the reliefs sought for in this writ application be not granted and upon cause being shown, if any, make the rule absolute.

AND / Or

During the pendency of this writ application, the press communique order dated 01.05.2019 published in daily newspaper Hindustan, Hindi edition, may kindly be stayed.

And/or

Pass such order(s) as your lordships may deem fit and proper.”

And in CWJC No.2416 of 2022, in which, there are three petitioners and petitioner Ashok Kumar is petitioner no.1, the following averments stand made:-

“50. That the petitioner has not earlier moved before this Hon’ble Court for the prayer made in para 1 of this application.

It is, therefore prayed that your lordships may graciously be pleased to admit this application, issue rule NISI, calling upon the respondents to show-cause as to why the reliefs sought for in this writ application be not granted and upon cause being shown, if any, make the rule absolute.

AND

During the pendency of this writ application, the press communique order dated 01.05.2019 published in daily newspaper Hindustan, Hindi edition, may kindly be stayed.

And/or

Pass such order(s) as your lordships may deem fit and proper.”

It is only at the fag end, this issue of abuse of process of law was brought to our notice, when we were convinced of the submissions made on behalf of the petitioner with regard to the violation of Section 35 of the Act to be not tenable in law.

It is pointed out that petitioner No.1, Ashok Kumar, in CWJC No.2416 of 2022 has not signed and verified the affidavit and as such, petition be allowed to be continued on behalf of the petitioner nos.2 and 3.

We are afraid, all these petitions need to be dismissed for we find the petitioner to have abused the process of law; wasted time of the Court and indulged in multiplicity of litigations, perhaps with the object of bench-hunting for these

petitions were listed before different benches over a period of time.

We find that save and except for CWJC No.6972 of 2014, all petitions stand filed by the very same counsel.

At this stage, learned counsel for the petitioner seeks permission to withdraw this petition, which is allowed subject to payment of Rs.25,000/- (Twenty Five Thousand) as cost to be paid by petitioner Ashok Kumar, S/o Bhogendra Ram, Resident of Village- Naurauli Sen, Post- Bhinda, P.S.- Mushahari, District- Muzaffarpur, to be recovered as arrears of land revenue, with the Advocate Clerks Welfare Fund within a period of three months from today.

Permission granted.

The present petition stands disposed of as withdrawn with the aforesaid observation.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/- Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2022
Transmission Date	NA