

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.423 of 2022

1. Dr. Yogendra Prasad Mandal President, Bihar State Homeopathic Medical Officers Association, Patna, aged about 67 years, male, son of Shital Prasad Mandal, Resident of Kamaldah Road, Navneet Nagar, Patna City, Police Station- Mehadiganj, District - Patna.
2. Dr. Md. Haroon Rashid Khan, Secretary, Bihar State Homeopathic Medical Officers Association, Patna, aged about 63 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 - Fathea Bachhawara, Police Station- Bachhawara, District – Begusarai.
4. Dr. Sanjay Kumar Sinha, Son of Sri Srikant Prasad, Resident of House No. 60, Anandpuri, Near Manorma Apartment, West Boring Canal Road, Police Station- Sri Krishnapuri, District - Patna.
5. Dr. Niwas Kumar, Son of Sheo Sahay Prasad, Resident of Village - Makhadumapur, Police Station- Ekangar Sarai, District - Nalanda.
6. Dr. Anil Kumar Singh, Son of Hridaya Narayan Singh, Resident of Village - Chhotka Rajpur, Post Office - Chhotka Rajpur, Police Station- Simari, District - Buxar, PIN Code- 802113.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Vikash Bhawan, New Secretariate, Patna.
3. The Special Secretary, AYUSH Directorate, Department of Health, Vikash Bhawan, New Secretariate, Patna.
4. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
5. The Chairman, Bihar State Technical Service Commission, 19 Harding Road, Patna.
6. The Secretary, 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.Pawan Kumar (A.C. To A.G.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 13-01-2022

Heard learned counsel for the parties.

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

“(i) For issuance of writ in the nature of Certiorari for quashing of Resolution No. 25 dated 13.01.1998 issued under the signature of Deputy Secretary of the Government, Health Department, Government of Bihar, Patna whereby and whereunder the Health Department have made proportionate distribution of post of Ayush Doctors to be filled up under the State Government in the ratio of Ayurvedic 50%, Homeopathy-30% and unani-20% without any basis and reasoning in the circular which is arbitrary and irrational and against the settled principle of law.

(ii) For further issuance of writ in the nature of Certiorari for quashing of Rule-9 (B) (III) of Bihar District Ayush Medical/State Ayush Medical Service (Appointment on Regular/contract basis and Service Conditions) Rule 2010 whereby and whereunder the proportionate distribution of seats of Ayush Doctors in Administrative Posts was decided in the ratio of Ayurveda 50%, Homeopathy 30% and Unani 20% in the light of the impugned circular issued vide Resolution No. 25 dated 13.01.1998.

(iii) For issuance of writ in the nature of Certiorari for quashing of Memo No. 16/C1-53/2020-1006-(Aa.chi.)/ Patna dated 24.11.2021 which was decided by the Additional Chief Secretary, Health Department, Government of Bihar, Patna without consideration of data of Registered Ayush Medical Practitioners in the field of Ayurvedic, Homeopathy and Unani are 34035:34217:5311 respectively as per the data supplied under the Right to Information Act in December, 2020.

(iv) Further issuance of writ in the nature of Mandamus for direction to the respondent authorities to consider and decide the ratio of distribution of posts/seats of Ayush Doctors in public appointment i.e. Ayurvedic, Homeopathic and Unani in proportionately ratio of 46:46:08 in the State of Bihar in view of number of doctors, number of colleges and

students of the above three streams of medicines in present situation as the number of Ayurvedic Doctors 34035, Homeopathy Doctors 34217 and Unani Doctors 5311 on the basis of registration of doctors in the Health Department in December 2020.

(V) For direction to the respondent authority to implement the decision in the appointment of Ayush Doctors 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 Commission, Patna dated 28.09.2020.

(VI) 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.”

Order dated 24.11.2021 passed by Additional Chief Secretary, Department of Health, Government of Bihar is well considered, reasoned and speaking order which has been passed pursuant to liberty granted by this Court to petitioners vide order dated 10.12.2020 passed in CWJC No.8870 of 2020 to file a representation before the concerned authority, as such, this Court is not inclined to interfere in said order with respect to allotment of quota for Ayurvedic, Homeopathic and Unani Medical Officers in the ratio of 50:20 and 30 respectively under AYUSH Department for appointment of AYUSH Medical Officer for which, advertisement for selection was issued by the AYUSH Department, Government of Bihar.

However, it shall be always open for the petitioners to approach the authorities on account of any subsequent development or policy decision or for any other reason necessitating change of said ratio in future appointment.

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

With aforesaid liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	