

15 23.11.2022

gd/ssd

FMA/861/2022
IA NO: CAN/1/2022
PARMOD KUMAR SINGH
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Kamalesh Bhattacharya,
Md. Manuwar Ali,
Ms. Moumita Karmakar
..for the Appellant.

Mr. Debraj Bhattacharya,
Mr. Subhrojyoti Bhowmick
..for the Respondent Nos.3 and 4.

In this intra court appeal the appellant has challenged the order of the learned Single Judge dated 15th February, 2022 whereby WPA 19042 of 2021 has been dismissed.

The appellant had approached the writ court with the plea that he had passed DHMS Examination and also completed Internship from 1st January, 2021 to 30th June, 2021. On 21.12.2020 the appellant had applied before the Registrar, Council of Homoeopathic Medicine, West Bengal and had also deposited the requisite registration and late fee. Thereafter the said respondent nos.3 and 4 had not taken any decision on the application for registration. Therefore, he had filed the writ petition being WPA 19042 of 2021 seeking a direction to the concerned respondents to consider and dispose of the application dated 21.12.2020.

Learned Single Judge has dismissed the petition holding that the appellant had moved application for registration belatedly and his application has been rightly rejected.

It is undisputed before this Court that on the application dated 21.12.2020 submitted by the appellant that no formal order of rejection has been passed by the respondent nos.3 and 4.

Hence, we are of the view that the learned Single Judge proceeded on the incorrect premises that the application has already been rejected.

Learned counsel for the respondent nos.3 and 4 has referred to the communication dated 25.10.2021 sent by the said respondents to the counsel for the appellant disclosing certain reasons coming in the way of granting the registration certificate. The said communication reveals that the documents submitted by the appellant were sent for scrutiny and the verification report was awaited when the communication dated 25.10.2021 was sent.

Hence, in the absence of verification of those documents, the adverse observations could not have been made. The communication dated 25.10.2021 cannot deem to be an order of rejection as by the said communication no rejection of the application was done.

In the aforesaid circumstances, we are of the view that once the application is made for registration, then appropriate decision on the said application in accordance with law is required to be taken by the competent authority. Undisputedly, till now no formal order on that application has been passed.

Hence, we direct the respondent nos.3 and 4 to duly consider the application for registration filed by the appellant and in case, if the appellant is not found entitled for registration, then to pass a reasoned speaking order duly disclosing the grounds of rejection.

It will be open to the appellant to submit original copies of the documents to the respondent nos.3 and 4 on which he intends to rely upon.

The appeal is accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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