

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

Date of Decision: 23.08.2022

229(1)

CWP-33430-2019 (O&M)

SANDEEP AND OTHERS

... Petitioners

Versus

UNION OF INDIA AND ORS

... Respondents

A N D

229(2)

CWP-3068-2020 (O&M)

SACHIN AND OTHERS

... Petitioners

Versus

UNION OF INDIA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Saurav Verma, Advocate
for the petitioners.

Mr. S.P. Jain, Advocate-Addl. Solicitor General of India with
Mr. Shobhit Phutela, Advocate for respondent No.1-UI.

Mr. Vivek Chauhan, AAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

This common order shall disposed two writ petitions i.e. CWP No.33430-2019 titled as ‘Sandeep and others Vs. Union of India and others’ and CWP-3068-2020 titled as ‘Sachin and others Vs. Union of India and others’.

The present writ petitions have been filed under Article 226 read with Articles 14, 16 and 21 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondent No.2- Haryana State Pharmacy Council to enroll the names of the petitioners in the list of licensed

Pharmacists being eligible having passed the D. Pharmacy course from various colleges approved by respondent No.3 – Pharmacy Council of India, and having also completed requisite 500 hours in practical training as required under The Pharmacy Act, 1948.

Perusal of the office report shows that service upon the respondents is already complete. Written response on behalf of respondent no.1 and 2 i.e. Union of India, through Ministry of Health as well as Pharmacy Council of India have been filed. There is no representation on behalf of the respondent No.2- Haryana Pharmacy Council. Mr. Vivek Chauhan, Addl. A.G., Haryana, who is present in Court and being an Additional Advocate General is fully competent to appear on behalf of the agencies, instrumentalities, statutory corporations and/or bodies created under the Statute and he accepts notice on behalf of the respondent No.2.

Learned counsel appearing on behalf of the petitioners contends that as per the reply filed by the Pharmacy Council of India, it has been specifically stated that Section 32(2) of the Pharmacy Act, 1948 prescribes the conditions required to be fulfilled before a person can be registered as a Pharmacist and that no other eligibility can be prescribed by the State Pharmacy Council. In support of the aforesaid submission, the relevant extract of the reply by respondents No.1 and 3, relied upon by the petitioner is reproduced hereinafter below:

- “1. *XXX XXX XXX*
2. *That it is respectfully submitted that registration of Pharmacists under the Pharmacy Act, 1948 is done U/S 33 of the Act by the State Pharmacy Council constituted U/S 19 of the Act after satisfying the conditions enumerated in Section 32(2) of the said Act.*

3. *That it is respectfully submitted that Section 46(2) (g) of the Pharmacy Act empowers a state governments to make rules, by notification in the Official Gazette which inter alia described the particulars to be stated on the proof of qualifications to be given in the applications for registration of Pharmacist.*
4. *It is respectfully submitted that as per Section 32(2) of the Pharmacy Act 1948, the following conditions are required to be fulfilled before a person is registered as a Pharmacist.*
 - (a) *The applicant pays the fee prescribed by the state government Under Section 46(2) (i) of the Pharmacy Act, 1948,*
 - (b) *The applicant has attained the age of 18 years,*
 - (c) *The applicant resides or carries on the business or profession of Pharmacy in the State, and*
 - (d) *The applicant has passed and approved examination*

Or

The applicant possesses a qualification approved Under Section 14 of the Pharmacy Act, 1948

Or

The applicant is a registered Pharmacist in another State.

As per Section 2(b) of the Pharmacy Act, 1948 the word "approved" means approved by Central Council (PCI) Under Section 12 or Under Section 14. The list of institutions approved by the answering respondent U/s 12 of the Pharmacy Act 1948 for the purpose of registration as a Pharmacist is available on Council's website www.pci.nic.in for a reference/finding out the approved status by the state pharmacy Council. The said list is regularly updated by the answering respondent and the Respondent No. 2 is required to ensure that

compliance of the statutory conditions prescribed Under Section 32(2) of the Pharmacy Act 1948 before registration as a pharmacist.

6. *It is respectfully submitted that the answering respondent has already brought the above position to the notice of the Haryana State Pharmacy Council i.e. Respondent No. 2 by letter dated 18.12.2019 a copy of which is enclosed as ANNEXURE R 3/1.”*

Learned counsel contends that the Pharmacy Council of India has already conveyed its stand to the Haryana State Pharmacy Council vide letter dated 18.12.2019 vide reference No.12/28/2015-PCI. The relevant extract whereof reads thus:

“I am directed to draw your attention to the CWP No-33430/2019 filed by Sh. Sandeep and others. The petitioners have claimed that the Haryana State Pharmacy Council is denying registration to petitioner as Pharmacist on the pretext that they have passed 10+2 and Diploma in Pharmacy Course from the institution located outside the State of Haryana and that some qualifying test would be taken. Your attention in this connection is invited to section 32 (2) of Pharmacy Act, 1948 which does not stipulate such requirements.

You are, therefore, requested to look into the matter and do the needful to avoid litigations of such nature. The list of Pharmacy institutions and Examining Authorities approved by the PCI u/s 12 of the Pharmacy Act 1948 for the purpose of registration as a pharmacist is available on this council’s website www.pci.nic.in which may be referred to.”

Learned counsel contends that he would be satisfied in case the Haryana State Pharmacy Council is directed to consider the present writ petition as a representation and take a decision thereupon after granting an opportunity of hearing to the petitioners in terms of the provisions contained

in the Pharmacy Act, 1948 and the communications sent by the Pharmacy Council of India, within a reasonable time frame.

The aforesaid prayer of the counsel for the petitioners is not objected to the learned counsel representing the Haryana State Pharmacy Council.

In view thereof, the present petitions are disposed of with a direction to the Haryana State Pharmacy Council to treat the present writ petitions as representations on behalf of the petitioners herein and to pass a reasoned and speaking order after granting an opportunity of hearing to the petitioners within a period of four months from the date of receipt of certified copy of this order.

Petitions stand disposed of accordingly.

23.08.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*