

D/L.5.
May 7, 2024.
MNS.

WPA No. 4385 of 2024

West Bengal Ayush Doctors Welfare Association
and another
Vs.
The State of West Bengal and others

Mr. Biswaroop Bhattacharya,
Md. Zohaib Rauf,
Mr. Younus Sultan
.... for the petitioners

Mr. Amal Kr. Sen, Ld. AGP,
Mr. Lalmohan Basu
.... for the State

Mr. Amritam Mandal,
Ms. Ananya Chakraborty,
Ms. Shipra Naskar
.... for the respondent no.6.

1. Learned counsel for the petitioners submits that the petitioners were given a notice to show cause regarding an enquiry to be conducted against the petitioners apparently at the behest of the Special Secretary, Department of Health and Family Welfare, Ayush Branch, State of West Bengal.
2. It is contended that it is doubtful as to whether actually the said show cause notice was issued at the behest of the Government.
3. Subsequently, in the affidavit-in-opposition, a purported enquiry report and the request of the Special Secretary have been annexed.

4. However, learned counsel for the petitioners alleges that the Registrar, who is the author of the show cause notice, himself is tainted. There are pending allegations against the Registrar regarding usurpation of power.
5. That apart, the enquiry report was the result of a purported enquiry which was held behind the back of the petitioner, which vitiates the same.
6. Accordingly, it is submitted that the enquiry report ought to be set aside.
7. Learned counsel appearing for the respondent no. 6, that is, the Registrar, State Council of Unani Medicine, controverts the allegations made against him and submits that even the other members of the petitioner no. 1- Association had admitted during the enquiry that fake courses are being sold by the said Association, which led to the enquiry report.
8. As such, it is submitted that since the enquiry has commenced on the basis of the show cause notice on the request of the Special Secretary to the Government of West Bengal, the same ought to be permitted to be followed through without any hindrance.
9. Learned counsel for the petitioners in reply submits that GD entries have been lodged alleging that several members of the

Association were made to sign papers forcibly.

10. Be that as it may, it transpires from the pleadings and the documents annexed to the affidavit-in-opposition that the show cause notice impugned herein was issued on the request of the Special Secretary, Department of Health and Family Welfare (Ayush Branch), State of West Bengal and as such the subsisting allegations, even if any, against the Registrar cannot *ipso facto* vitiate the said issuance of show cause notice.

11. Insofar as the enquiry report is concerned, the same can at best be a piece of circumstantial evidence in supporting the allegations against the petitioners. The said piece of evidence cannot be held to be conclusive at this juncture prior to an opportunity being given to the petitioners to be heard and to controvert the contents of the report and make their own submissions in their defence.

12. Thus, taking the enquiry report in appropriate context, too much stress cannot be laid on it at this stage. In any event, as the petitioners are to be given an opportunity to rebut the same and make their submissions, the inquiry report need not be held to be vitiated at this

juncture. Rather, it will premature on comment on the veracity of the report and the purported admissions made by other members of the petitioner no.1-Association at this juncture, which could influence further proceedings.

13. Hence, WPA No. 4385 of 2024 is disposed of by directing the respondent no. 6 to proceed with the hearing on the basis of the impugned show cause notice by giving adequate opportunity to the petitioners to file their representations to the show cause notice and report as well as giving adequate opportunity of personal hearing to the petitioners in their own defence, if necessary permitting the petitioners to produce further documents in support of their case.

14. It is expected that such enquiry shall be concluded at the earliest, positively within eight weeks from date, in accordance with law in the light of the observations made above.

15. It is made clear that this court has not made any observations on the merits of the allegations and counter allegations between the parties.

16. It is further made clear that the respondents shall not act on the enquiry report, which has been annexed to the affidavit-in-opposition, prior to conclusion of the hearing in terms of

the above directions, subject to the satisfaction of the respondent authorities as to the veracity of the said report upon giving such opportunity of hearing to the petitioners.

17. There will be no order as to costs.

18. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)