

11.12.2024
Item No. 58
PG
Ct. No.7

W.P.A. 12625 of 2019
Central Council of Bio-Chemic &
Complex Homoeo Medicine with Research
in India & Ors.
Vs.
Union of India & Ors.

Mr. Biswaroop Bhattacharya
Mr. Kausheyo Roy
Ms. Nilanjana Ghoruifor the petitioners

Mr. Asok Kr. Chakraborty, Ld. Addl. Solicitor General
Mr. Debasis Surfor the respondents
1, 3, 4, 7 and 8

Mr. Debapriya Guptafor the respondents
2 & 5

Mr. Asutosh Pathakfor the respondent no. 1

1. The order of the Secretary of the Government of India, Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) dated March 28, 2019 is under challenge in this writ petition.
2. Mr. Bhattacharya, learned advocate appearing for the petitioner draws the attention of the Court to the said order, wherein it has been recorded that CCH has conveyed that Bio-chemic medicines are part and parcel of Homoeopathy under the provision of Homoeopathic Central Council Act, 1973 and Bio-chemic medicines are manufactured under the laws regulating manufacturing of Homoeopathic medicines.
3. He submits that the production process and formulation of Bio-chemic system of medicines are

entirely distinct from those used in the preparation of homoeopathic medicines.

4. He, therefore, submits that the said order is liable to be set aside and quashed by this Court.
5. *Per contra* , the learned Additional Solicitor General submits that the aforesaid decision was taken by the appropriate authority pursuant to the representation dated June 27, 2018. He submits that the submission made by Mr. Bhattacharya was not the case made out by the petitioner/institution before the concerned respondent authority.
6. He further submits that in terms of section 2(d), of the Homoeopathic Central Council Act, 1973 “Homoeopathy” has been defined to mean the Homoeopathic system of medicine and includes the use of Bio-chemic remedies.
7. He further submits that Homoeopathy Central Council Act, 1973 has been repealed and a new Act viz., National Commission for Homoeopathy Act, 2020 has been enacted, which has come into force on and from July 5, 2021.
8. He further submits that as per the definition of “Homoeopathy” under section 2(f) of the 2020 Act, Homoeopathy means the Homoeopathic system of medicine and includes the use of Bio-chemic remedies supplemented by such modern advances, scientific and technological development as the Commission may, in

consultation with the Central Government, declare by notification from time to time.

9. Mr. Gupta, learned advocate appears for the respondent nos. 2 and 5. He adopts the argument of the learned Additional Solicitor General.
10. In reply, learned advocate appearing for the petitioners submits that it has been specifically denied in the affidavit in reply that Homoeopathy includes Bio-chemic system of remedies.
11. In course of hearing of this writ petition, Mr. Bhattacharya, learned advocate for the petitioners draws the attention of the Court to sub-paragraphs (a) to (h) of paragraph 5 of the affidavit in reply in support of his contention that Bio-chemic medicine is different from that of Homoeopathy.
12. On a query of the Court, Mr. Bhattacharya, learned advocate for the petitioners, in his usual fairness submits that the petitioners have not specifically made such claim before the authorities, which has been stated in paragraph 5 of the said affidavit in reply.
13. After going through the letter dated June 27, 2018, this Court finds that the President, Central Council of Bio-chemic Medicine has only prayed for inclusion of the name of the institution and its degree and diploma as a new system. No material in support of such prayer appears to have been placed before such authority.

14. In view thereof, this Court is of the considered view that there was no occasion on the part of the respondent authorities to deal with the contention, which is now sought to be raised by the petitioners for the first time in the affidavit in reply.
15. The issue involved in this writ petition is a technical issue and the same should be best left for the experts in the field to take a decision.
16. The petitioners will be at liberty to make a comprehensive representation before the Secretary, Ministry of Ayush being the respondent no. 8 herein annexing documents and materials in support of their claim. If such a representation is submitted, the respondent no. 8 shall consider and dispose of the same by passing a reasoned order after giving an opportunity of hearing to the petitioner/Council or their authorised representative. The respondent no. 8 shall be free to call for reports from any other authorities and to hear them, if necessary, for the purpose of arriving at a decision with regard to the issues that may be raised by the petitioners in their representation.
17. The entire exercise including communication of the reasoned order shall be completed within a period of eight weeks from the date of receipt of server copy of this order along with the representation, as directed by this Court.

18. With the aforesaid observations/directions, the writ petition is disposed of.
19. No costs.
20. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)