

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

W.P.S.T. 101 of 2025

The State of West Bengal & Ors.

Vs.

Dr. Ushasi Ghosh Chaudhury & Ors.

With

W.P.S.T. 81 of 2025

The Paschim Banga Ayurved Parishad

Vs.

Dr. Ushasi Ghosh Chaudhury & Ors.

For the Petitioner/ State in WPST 101 of 2025	: Mr. K. J. Yusuf, Id. A.G.P., Md. Ahsanuz Zaman.
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For the Respondent No. 2 in WPST 101 of 2025	: Mr. Achin Jana,
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For the Petitioner in WPST 81 of 2025	Ms. Chetna Rustagi.
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For the Respondent No. 1 in both matters	: Mr. M. N. Roy, Mr. Biswarup Nandy.
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For the State in WPST 81 of 2025	: Mr. Tapan Kumar Mukherjee, Id. A.G.P., Ms. Sangeeta Roy.
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Judgment on	: February 10, 2026
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Madhuresh Prasad, J.:

1. The two writ petitions are filed by the Petitioner/State and the Paschim Banga Ayurved Parishad (PBAP for brevity), both respondents before the West Bengal

Administrative Tribunal (*'Tribunal'* for short), assailing the order dated 22.01.2025 passed by the tribunal in O.A. No. 332 of 2024. The Tribunal allowed the Original Application filed by the applicant and directed the respondents (petitioners herein) to give appointment to the applicants to the post of Senior Ayurvedic Medical Officer (SAMO for brevity), in terms of the recommendation made by the West Bengal Health Recruitment Board (*'WBHRB'* for short).

2. The brief facts leading to filing of the O.A. was that the WBHRB published an advertisement on 12.12.2022, inviting application for recruitment to the post of SAMO in the West Bengal Ayurvedic Health Service under the Health & Family Welfare Department, Government of West Bengal.
3. It is not in dispute that one of the essential qualifications was that the candidate was required to be registered either in Part A of the State Register of Ayurvedic Medical Practitioners maintained by the PBAP, or in Part I of the Central Register maintained by the then Central Council of Indian Medicine. The applicant participated in the recruitment process relying on her registration with the PBAP dated 02.05.2014 vide No. 12219.
4. Her name appeared in the merit list/ result dated 28.11.2023 wherein the selected candidates were notified, but the same was subject to verification of documents and testimonials which was fixed on 04.01.2024. The authorities thereafter took steps for verification of the applicant's certificate of registration with the PBAP. On verification it was found that the applicant's registration was not valid as the same was cancelled on 14.07.2023.
5. It is under such circumstance, that the authorities, by an order dated 06.03.2024 issued under the signature of Special Secretary (Ayush), Health and Family

Welfare Department found the applicant's candidature to have failed in the verification process and found her to be disqualified/ineligible for the appointment since she was not registered with PBAP. The writ applicant challenged the order dated 06.03.2024 before the Tribunal by filing an Original Application (OA No. 332 of 2024). The O.A. was allowed which led to filing of the present writ petition. The self-same order of the Tribunal was put to challenge by the State, as also by the PBAP. Therefore, both writ petitions were taken up together and are being considered by a common judgment.

6. The Central Council of Indian Medicine ("CCIM" for short) was earlier the National Statutory Body under the Indian Medicine Central Council Act, 1970. All Ayurvedic practitioners throughout the country were subject to the standards of professional conduct, etiquette and code of ethics prescribed in "*Practitioners of Indian Medicine (Standards of Professional Conduct, Etiquette and Code of Ethics) Regulations, 1982*". Regulation 26 therein required intimation regarding change of address to be submitted by every practitioner of Indian Medicine to the concerned State Board or Council as per procedure specified therein. It is relevant to mention here that "*The National Commission for Indian System of Medicine (Ethics and Registration) Regulations, 2023*" with effect from 28.12.2023 barred (in Regulation 12) registration in another State Register if the name of the practitioner was already existing in another State Register.
7. It is submitted by the learned Advocate for the writ petitioners that the applicant was holding permanent registrations in two different State Boards (West Bengal and Maharashtra). The registration in Maharashtra was obviously obtained suppressing the existing registration in the State of West Bengal. The PBAP was

not informed such about change of address. The applicant, therefore, violated Regulation 26 of the Code of Ethics Regulation of 1982.

8. The scheme of the rules/regulations permits a person to be registered either with the Central Council or with the State Council. A qualified person is eligible to practice, and for appointment in a State, only if she/he is registered with the State Council. A practitioner would be eligible for practicing in any State in the Country only if She/he is registered with the Central Council.
9. During the process of verification of the applicant's PBAP certificate, it came to light that she had already registered herself in the State of Maharashtra on 13.04.2022 violating the Code of Ethics Regulation of 1982. The advertisement was issued much thereafter, on 12.12.2022. Knowing fully well that she had got herself registered in Maharashtra, the applicant participated in the recruitment process claiming registration with PBAP. The applicant's participation in the recruitment process, thus lacks *bona fide*, and is based on suppression and misrepresentation.
10. The PBAP on coming to know about the applicant's dual registration suspended her registration on 21.11.2022. Thereafter, they cancelled the registration with PBAP on 14.07.2023. In view of cancellation of the applicant's registration, the applicant did not possess the claimed essential qualification of registration with PBAP, and was rightly found disqualified in the recruitment process. The disqualification is in accordance with law and requires no interference whatsoever. The Tribunal, therefore, has erred in directing for appointment of the applicant pursuant to the application submitted by her.
11. The learned Counsel for the applicant, on the other hand submits that

suspension of the applicant's certificate of registration finds no basis in the statute rules/regulations. There is no provision wherein certificate can be suspended. Without any such source of power the suspension of her registration dated 21.11.2022 is unsustainable. It is also submitted that the suspension and cancellation is in violation of the principle of natural justice as no notice was ever served on the applicant prior to the suspension or cancellation. Therefore, the applicant cannot be held to be disqualified.

12. In their reply, the learned Counsels representing the writ petitioners submitted that suspension and cancellation of the applicant's certificate was done in accordance with Section 29 of the Paschim Banga Ayurvedic System of Medicine Act, 1961. Section 30 of the Act prescribes the remedy of appeal against cancellation before the State Government. The applicant did not avail such remedy. Neither the suspension nor cancellation has been put to challenge in accordance with law.

13. In such circumstances, the issue regarding suspension and cancellation cannot be raised in the present proceedings as the same was not raised either before the State authorities, or the Tribunal in the O.A.

14. The learned counsel appearing for the PBAP in support of his submissions has also relied upon a decision of Division Bench of the Bombay High Court. He handed over copy of the Judgement in the case of ***Nageshwar Basantram Dubey vs. Union of India and Others*** reported in ***2006 SCC OnLine Bom 1275***, subsequently affirmed by the Apex Court in the case of ***Ayurvedic Enlisted Doctors' Association vs. State of Maharashtra and Another*** reported in ***(2009) 16 SCC 170***.

15. It is submitted that since suspension and cancellation of the applicant's registration was never questioned by the applicant, the disqualification founded on such suspension/cancellation could not have been overlooked by the tribunal while allowing the O.A. The order of the Tribunal, therefore, is clearly unsustainable.
16. Upon consideration of the rival submissions we find that the several dates noted above regarding the date of advertisement, result of the recruitment process, date for verification of the documents and certificate of registration are not in dispute. It is also not in dispute that the applicant participated in the recruitment process, claiming registration with the PBAP. The applicant's registration with PBAP was dated 02.05.2014. Therefore, it is this registration which was to be verified by the authority in the process of recruitment. It is also not in dispute that the National Commission for Indian System of Medicine Act, 2020 (hereinafter in short referred to as the Act of 2020), w.e.f. 20th September 2020 bars dual registrations in two States.
17. The applicant's, registration dated 02.05.2014, with the PBAP in the state of West Bengal was valid till December 2023. During validity of this registration in the State of West Bengal, she got herself registered on 13.04.2022 with the Maharashtra Council of Indian Medicine, Mumbai. It is the case of the applicant that she got herself registered with Maharashtra Council to shift her practice within the State of Maharashtra.
18. There is no dispute that the applicant did not give the notice of change of address to the PBAP as required under Regulation 26 of the Code of Ethics Regulation 1982. Therefore, the applicant was conscious of having suffered a

disqualification, prior to declaration of the result of the recruitment process. We also find that the applicant's registration with PBAP was cancelled by a notice of cancellation dated 14.07.2023, issued under the signature of Registrar PBAP. The same in unequivocal terms notifies cancellation of applicant's Registration No. 12219 of 02.05.2014. The same remains unchallenged till date.

19. It is the applicant's case that the notices even if issued by the PBAP, prior to the cancellation were not served upon her and she had no intimation about cancellation of registration, dated 14.07.2023. Such submission cannot be accepted without going into an issue of disputed fact whether any notice prior to cancellation was served or not, which could have been raised by the applicant and considered if she had challenged the notice of cancellation dated 14.07.2023, which she chose not to challenge.

20. In view of cancellation of petitioner's registration with PBAP on 14.07.2023, there was no question of successful verification of the applicant's claim based on registration No. 12219 with the PBAP, being done on 04.01.2024 much thereafter. Therefore, the authorities rightly found that for want of an essential qualification, being the registration with PBAP, the applicant was ineligible.

21. On behalf of the applicant another submission was made that advertisement dated 12.12.2022, required registration of the applicant either in the State Register or in the Central Register maintained under the NCISM Act of 2020 and regulations framed thereunder. The applicant, in paragraph 4 (viii) of O.A claimed that she had National Registration NO. NR/AY/WB/000 1700. Considering such claim, the Tribunal allowed the relief prayed in the Original Application filed by the applicant. The Tribunal relied upon a document, wherein

the applicant's name is shown in the Serial No. 1700 having Registration No. NR/AY/WB/000 1700. At the first brush such submission appears to be acceptable, as it can be said that if applicant had one out of the two acceptable registrations in terms of the advertisement dated 12.12.2022, there is no case for her disqualification. However, upon deeper scrutiny of her case based on averment made in the Original Application and documents relied upon we are not convinced regarding such claim.

22. Such finding of the Tribunal, in our opinion is unsustainable because in her application made in response to the advertisement dated 12.12.2022, the applicant claimed to possess the requisite qualification of registration, relying upon her registration with the PBAP (State Council). She did not apply claiming to possess a registration with NCISM. The applicant therefore, could not legitimately expect that the authorities at the time of verification of documents would verify her claimed registration with NCISM.

23. The document referred to and relied upon in support of such assertion regarding her National Registration in the Original Application is a list issued by the by the *"Board of Ethics and Registration for Indian System of Medicine, NCISM, New Delhi"*. The list contains details of the applicant's Provisional National Registration Number (West Bengal -Ayurved). At the top of the tabular list there is a heading *"Provisional National Registration Numbers (West Bengal Ayurved)"*. The document, contains a list of Provisional Registration numbers. and therefore, does not support the applicant's claim that she had a National Registration number.

24. There is nothing on record to show that these provisional registrations were at

any point of time permanently accepted by the NCISM, in fact the document leads the Court to infer otherwise. The last column of the table shows that the provisional National Registration was founded on the applicant's registration with PBAP, which registration stood cancelled on 14.07.2023, much prior to the applicant's candidature being verified in the recruitment process. It is not the applicant's case that her National Registration was independent of the registration with PBAP, which was cancelled. The registration with PBAP having cancelled, there is no scope for the applicant to rely upon the National Registration.

25. The pleading and document in the Original Application therefore, is insufficient to arrive at a conclusion that the applicant had a valid National Registration with the NCISM at the time of verification being done by the authorities in the recruitment process. The finding of the Tribunal in this regard is therefore, unsustainable.

26. It is clear that the applicant neither possessed valid registration with the State Council nor with the NCISM at the time of verification of her candidature in the recruitment process. The authorities, therefore, did not commit any error in disqualifying her candidature for want of registration. It is not in dispute that registration is one of the prerequisites and essential qualification under the advertisement dated 12.12.2022, pursuant to which the applicant participated in the recruitment process. The requirement of such registration under the Act and Regulations for claiming to be a valid practitioner is a settled legal proposition. In this connection reliance placed by the writ petitioner on decision of the Division Bench of Bombay High Court in the case of **Nageshwar Basantram Dubey** (supra) as affirmed by the Apex Court in the case of

Ayurvedic Enlisted Doctors' Association (supra) merits positive consideration.

Such requirement of registration either in a State Register or Central Register finds affirmation in decision of the apex Court in the case of **Ayurvedic Enlisted Doctors' Association** (supra) relied upon.

27. Insofar as the reliance placed by the applicant on a temporary registration with the PBAP dated 22.01.2024 vide Temporary Registration NO. PBAP /TR 001, we find that such registration is of a date, even after conclusion of the verification process in the recruitment process. The same therefore, cannot be relied upon to resuscitate a candidature which had already perished, being disqualified for want of registration at the time of verification of the candidature in the recruitment process.

28. We, therefore, find the order dated 22.01.2025, passed in O.A No. 332 of 2024 is unsustainable; and the same is hereby set aside. The writ petitions stand allowed in these terms.

29. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)