CHANDRAKANT DEWANGAN

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5135 of 2026

1 - Dr. Aishwarya Kumar Sahu S/o Shri Manbodh Ram Sahu Aged About 37 Years R/o Village And Post Kareli Chhoti, Block Magarlod, Distt. Dhamtari, Chhattisgarh. (Candidate Of Revenue Division Raipur, Chhattisgarh.)

2 - Dr. Rajnish Jaiswal S/o Late Shri Shivshankar Prasad Jaiswal Aged About 50 Years Government Ayurvedic Dispensary, Gangouti, Block Bhaiyathan, Distt. Surajpur, Chhattisgarh. (Candidate Of Revenue Division Surguja, Chhattisgarh.)

3 - Dr. Nishant Kaushik S/o Dr. Hemant Kumar Kaushik Aged About 48 Years Specialized Therapy Centre, Community Health Centre, Masturi, Distt. Bilaspur, Chhattisgarh. (Candidate Of Revenue Division Bilaspur, Chhattisgarh.)

4 - Dr. Sunil Kumar Tandon S/o Late Shri Daulal Tandon Aged About 39 Years Plot No. 597/46, Road No. 7-A, Ashish Nagar, Rishali, Bhilai, Distt. Durg, Chhattisgarh. 490006. (Candidate Of Revenue Division Durg, Chhattisgarh.)

5 - Jitendra Singh Thakur S/o Late Shri Omkar Singh Thakur Aged About 56 Years Ayush Centre Bhanbedra, Block Bhanupratappur, Distt. North Bastar Kanker, Chhattisgarh. (Candidate Of Revenue Division Bastar, Chhattisgarh.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Medical Education (Ayush) Department, Mantralaya Mahanadi Bhawan, Nava Raipur, Atal Nagar, Distt. Raipur, Chhattisgarh.

2 - Director Ayurveda, Yoga And Naturopathy Unani, Siddha And Homeopathy (Ayush), Raipur, Distt. Raipur, Chhattisgarh.

3 - Registrar Chhattisgarh Ayurvedic And Unani System Of Midicine And Naturopathy Board, Raipur, Distt. Raipur, Chhattisgarh.

4 - Election Officer/ Chief Election Officer Chhattisgarh Ayurvedic And Unani System Of Medicine And Naturopathy Board, Raipur.

5 - The Inquiry Committee Constituted To Examine The Complaint, Through Its Chairman/ Principal Govt. Ayurveda College Bilaspur, Distt. Bilaspur, Chhattisgarh.

... Respondent(s)

For Petitioner(s)	:	Mr. Satish Chandra Verma, learned Senior Counsel appears alongwith Mr. Sajal Kumar Gupta, Advocate.
For Respondent(s)/State	:	Mr. Shobhit Mishra, Dy. Govt. Advocate.
For Respondent No.3 & 4	:	Mr. Ranbir Singh Marhas, learned Senior Counsel appears alongwith Ms. Manisha Tandon, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

07/10/2026

1. By way of this petition, the petitioner has prayed for following reliefs:-

> *"I. Issue a writ of Certiorari or any other appropriate writ, order, or direction to quash and set aside the impugned Notice No. 03/Election/2026/2027 dated 30.09.2026 issued by the Election Officer/Registrar (Annexure P/1).*
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> *II. Issue a writ of Certiorari or any other appropriate writ, order, or direction to quash and set aside the impugned letter*

dated 29.09.2026 issued by the Director (AYUSH) (Annexure P/2) and the impugned committee report dated 29.09.2026 (Annexure P/3).

III. Issue a consequential writ of Mandamus directing the respondent authorities, particularly the Election Officer/ Registrar, Chhattisgarh Ayurvedic and Unani System of Medicine and Naturopathy Board, Raipur, to resume and conclude the election process for constitution of the Third Council from the stage at which it was illegally stayed, including counting of votes and declaration of the election result, strictly in accordance with the notified election programme and the 1973 Rules;

IV. Declare that the Director (AYUSH), the Committee constituted by him and the Election Officer/Registrar do not possess any jurisdiction under the 1973 Rules to stay or suspend the ongoing election process in the manner impugned herein;

V. Grant any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, including costs of the petition."

2. Learned Counsel for the Petitioners submits that the Petitioners are challenging the notice dated 30/09/2026, memo dated 29/09/2026 and letter dated 29/09/2026 issued by the Principal and President, Inquiry Committee, Government Ayurvedic College, Bilaspur (C.G.), whereby the counting proceedings have been directed to be suspended in terms of Rule 17 of the Chhattisgarh Ayurvedic, Unani Tatha Prakritik Chikitsa Vyavasai Rules, 1973. He further submits that, on an earlier occasion, this Court, while disposing of WPC No.4418/2026, had specifically directed that, insofar as the election process is concerned, the same shall not be stalled or stopped on account of filing of the said petition or

any objection raised therein. Accordingly, the concerned authorities were directed to raise their objections before the competent authority; however, insofar as the election process is concerned, no direction was issued to stop, stall or vary the same in any manner. So far as Rule 17 is concerned, the said Rule provides that the State Government may, on its own motion or on an objection made, declare any election that has been held to be void on account of any corrupt practice or other sufficient cause and may call upon the electorate to hold a fresh election. However, this does not mean that the ongoing election process can be stayed by passing an order either staying the recounting of votes or otherwise staying the election proceedings.

3. Learned Counsel appearing for the State as well as Respondents No.3 and 4 submits that the authorities shall act strictly in accordance with the provisions of the applicable Act and Rules and shall ensure that the election process is conducted in accordance with law.

4. I have heard learned counsel for the parties and perused the material available on record.

5. In the matter of ***Boddula Krishnaiah and Another Vs. State Election Commissioner, A.P. and Others***, reported in ***(1996) 3 SCC 416***, Hon'ble the Supreme Court has held as under :-

> *"11. Thus, it would be clear that once an election process has been set in motion, though the High Court may entertain or may have already entertained a writ petition, it would not be justified in interfering with the election process giving direction to the election officer to stall the proceedings or to conduct the election process afresh, in particular when election has already been held in which*

the voters were allegedly prevented from exercising their franchise. As seen, that dispute is covered by an election dispute and remedy is thus available at law for redressal.

12. Under these circumstances, we hold that the order passed by the High Court is not correct in law in giving direction not to declare the result of the election or to conduct fresh poll for 20 persons, though the writ a petition is maintainable. The High Court, pending writ petition, would not be justified in issuing direction to stall the election process. It is made clear that though we have held that the respondents are not entitled to the relief by interim order, this order does not preclude any candidate including defeated candidate from canvassing the correctness of the election. They are free, as held earlier, to seek remedy by way of an election petition as provided in the Act and the Rules."

6. While considering the binding pronouncement in the matter of ***Election Commission of India Vs. Ashok Kumar,*** reported in ***(2000) 8 SCC 216***, Hon'ble the Supreme Court has observed as under :-

"In the said case, while considering the maintainability of writ petitions under Article 226 of the Constitution after the commencement of election proceedings governed by the Representation of the People Act, 1951, the Supreme Court delineated the scope of judicial review in such matters. It was held that though courts should ordinarily refrain from interfering once the election process has commenced, the jurisdiction of the High Court under Article 226 is not completely ousted and may still be exercised in exceptional cases, provided a dual test is satisfied:

(i) that the relief sought from the court does not have the effect of retarding, interrupting, protracting or stalling the counting of votes or

the declaration of election results, especially if that is the only remaining stage; and

(ii) that a clear case of mala fides or arbitrary exercise of power by the Election Commission is made out warranting judicial scrutiny."

7. Having heard learned counsel for the parties as well as the said orders passes by the Hon'ble Supreme Court and considering the aforesaid aspects of the matter, when the question was put to the learned Counsel appearing for the State as well as the learned Counsel appearing for Respondent Nos.3 and 4, they fairly submitted that it appears that the concerned authorities could not properly appreciated the purport of Rule 17 of the Rules of 1973. Rule 17 of the Rules of 1973 does not provide for stopping or staying the election proceedings.

8. Rule 17 of the Chhattisgarh Ayurvedic Unani Tatha Prakritic Chikitsa Vyavsai Rules, 1973 reads as under :-

> "17. Power of Government to declare election to be void -
>
> The state Government may of its own motion or on objection made declare any election that has been held to be void on account of any corrupt practice or other sufficient cause and may call on the electorate to make a fresh election. The decision of the state Government under this rule shall be final."

9. Having heard learned Counsel for the parties and perusal of record, particularly Rule 17 of the Rules, it appears that any action or order under the said Rule can be taken only after completion of the election proceedings and not before or during the course of the election proceedings. Therefore, staying the counting of votes cannot be held to

be in accordance with Rule 17 of Rules 1973. Accordingly, the notice dated 30/09/2026, memo dated 29/09/2026 and letter dated 29/09/2026 are hereby quashed. The concerned authorities are directed to commence the counting of votes forthwith and declare the result in accordance with law.

10. With the aforesaid observation, the writ petition is disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge

Chandrakant