(2018) 10 CHH CK 0005

In the Chhattisgarh High Court

Case No : Writ Petition (C) No. 1800 of 2018

Bhuneshwar Sahu — APPELLANT

Vs

State Of Chhattisgarh — RESPONDENT

Date of Decision : 03-10-2018

Acts Referred:
Constitution of India, 1950 — Article 21

Citation : (2018) 10 CHH CK 0005

Hon'ble Judges : Ajay Kumar Tripathi, CJ;Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Puneet Chaturvedi, C.R.Sahu, Y.S.Thakur,

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. The Petitioner claims himself to be a qualified Diploma Holder in Electro Homeopathy and he is practicing in the said stream since 1999. It is his

case that there is no bar against practicing Electro Homeopathy, therefore, the sealing of his clinic after a notice having been issued in Annexure P/3,

dated 19.03.2017 and the subsequent act of actual sealing in terms of Annexure P/4, dated 02.08.2017 is required to be set aside. The property or the

clinic be unsealed and a direction be issued not to interfere with the practice of Electro homeopathy by any of the authorities of the State of

Chhattisgarh.

2. Arguments were made that there are decisions and observations even by the Hon'ble Apex Court that there is no bar to practice Eletro

Homeopathy and they cannot be called as ""quacks"" to fall within the mischief of the order and decision of a Division Bench of the High Court of

Chhattisgarh, dated 10.10.2017 passed in a batch of Public Interest Litigation applications, the leading case being the case of Madhukar Dwivedi v.

State of Chhattisgarh & Others {WP(PIL) No. 19 of 2017} .

3. It was also urged that there is no provision in the Chhattisgarh State Upcharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan

Adhiniyam, 2010 (for short 'the Act') to allow sealing.

4. The above submission or such other submissions against action of sealing of the clinic of the Petitioner is now not required to be decided by this

High Court afresh since the larger issue relating to action to be taken against unauthorised or unregistered establishments providing health services has

been already dealt with in quite a detailed order passed in the case of Madhukar Dwivedi (supra).

5. In our opinion, the following findings given by the Division Bench and which are reproduced hereinbelow, is a complete answer to the arguments

made on behalf of the Petitioner:

10. We have examined the facts of each of the WPCs which are instituted in the wake of actions; or apprehending actions; by the officials. In their

gist, the plea in the WPCs get classified into three categories. Some of the Petitioners in those writ petitions contend that they are duly qualified to

practice in terms of the certificates issued to them by the authorities, which according to them are competent to authorise medical and health care

practices. Going by the pleadings of some of those Petitioners, such certifications include the conferment of eligibility to practice 'electro-homeopathy'

and different other versions of medical and health care facilitations. There is also the plea that some of the Petitioners are trained 'para-medics'.

Petitioner in WPC No. 1113 of 2017 pleads that she runs is a 'Blood Collection Centre' and that she is competent to run it. She has pleaded that she

opened a blood collection centre and is providing facility of collection of blood by engaging trained staff. Another plea is that the clinics or

establishments have been closed down without any prior notice. There is also the plea that the State authorities do not have the power to close down

the clinics and such institutions run by those writ Petitioners. Some of them have contended that they have applied for registration under the Act and

the Rules; some of them also resorting to e-filing; however that, those applications for registration are not being considered. The fact of the matter

remains that none of the Petitioners in any of the WPCs has obtained registration for that person's clinical establishment under the Act, as enjoined by

it and the Rules. None of them had earlier come to this Court and obtained orders on the plea of failure or refusal to consider any application for

registration under the Act and the Rules.

11. The object of the Act is affirmed in its Preamble. That legislation is enacted to provide for licensing of Nursing Home and Clinical Establishment

and for matters connected therewith to ensure standardization and thereby achieving improvement of health care services. The Act draws abundant

synergistic support from the Constitution of India. It is founded in Article 21 and anchored in Part IV of the Constitution. It provides the requisite

legislative insulation to protect those in need of health care by ensuring that activities of nursing homes and clinical establishments are regulated in

terms of statutory regime of norms to ensure due regulation and control of that critically relevant sector. The Act lays down standards for centres of

health care services and regulates their activities through legislative control and duly authorised executive supervision. It prescribes punishments for

offences against that law. The legislative power of the State to make such legislation and the co-extensive executive powers are referable primarily to

Entries 7, 64 and 65 of List II in the Seventh Schedule to the Constitution. Section 3 of the Act provides that any person, company, corporate body or

association/partnership firm who intend to set up a Nursing Home or a Clinical Establishment as defined in that Act shall apply to the Supervisory

Authority and that authority shall grant licence to a nursing home or a clinical establishment as the case may be, if it is satisfied that the eligibility

norms for obtaining the licence are fulfilled by the applicant.

Thus, licence is prescribed for Nursing Home or Clinical Establishment as defined in the Act and provision is made for application and grant of

licence. The applicant, for licence, is required to furnish the details as prescribed. The proviso to that section enjoins, among other things, that the

Supervisory Authority shall grant licence, if it is satisfied that, if the applicant fulfills the norms prescribed for grant of licence. The details to be

furnished are prescribed in the Rules made in exercise of power under Section 18 of the Act. The other requisite details are also seen delineated in

Section 6 of the Act. By virtue of Section 1(3) of the Act, the said statute came

into force on 23.09.2010, the date of publication of that Act in the

official gazette. In terms of the proviso to Section 3, all nursing homes or clinical establishments, which were already in existence on that day, shall

apply to the Supervisory Authority, within 90 days from then.

Section 6 of the Act provides for grant of licence or rejection of the application based on the examination of the application for licence. The grounds

on which the application for licence shall be rejected are enumerated in the different clauses in Section 6 of that Act. They are thus the grounds of

ineligibility for licence under the Act. Section 7 enumerates the conditions of licensing. Section 8 governs the renewal of licence. Section 9 provides

for cancellation or suspension of licence on the grounds stated therein. Power of entry and inspection is conferred on the duly authorised officer by

Section 11 of the Act. Whoever runs a Nursing Home or a Clinical Establishment without obtaining a licence shall be punishable with fine. Section 12

provides further penal provisions. The penalty by way of fine is confined to the first instance of conviction. Subsequent conviction carries penalty by

way of imprisonment as well. Section 13 also contains certain penal provisions. Sections 15 and 14 regulate the prosecution on matters relating to

jurisdiction and proceedings against juristic persons, respectively. All offences under the Act are cognizable in terms of Section 16 of that Act. Thus,

running of a Nursing Home or a Clinical Establishment without obtaining a licence under the Act is by itself an offence. Hence, running a Nursing

Home or a Clinical Establishment without a licence, in the State of Chhattisgarh, is forbidden by law. It is a transgression of law and is hence

prohibited. Thus, the effect of Sections 6 and 7 of the Act is that no Nursing Home or a Clinical Establishment as defined in that Act can be set up or

run without licence under Section 3 of the said Act.

12. We will now examine the term ""Clinical Establishment"" in the Act. ""Clinical Establishment"" is defined in Section 2(b) to mean a Medical

Laboratory, a Physiotherapy Establishment or Clinic or a Hospital or any other establishment analogous to any of them, by whatever name called.

Medical Laboratory"" is defined in Section 2(f) to mean an establishment, manned by qualified pathologist and radiologist, where Bio-Medical tests

such as hematology, biochemistry, serological tests, bacteriological, cytology, histology, genetic investigations or any other diagnostic tests are carried

out. ""Physiotherapy Establishment"" is defined in Section 2(h) to mean an establishment where massaging, elector-therapy, hydro-therapy, medical

gymnastics or any other similar processes are usually carried on, for the purpose of treatment of disease or of infirmity or for improvement, whether

by modern medicine or Indian system of medicine. ""Clinic"" is defined in Section 2(c) to mean any premise having facilities for treatment of sick and

used for their reception and not stay. ""Hospital"" is defined in Section 2(d) to mean any premise having facilities for treatment of sick and used for their

reception or stay. In terms of Section 2(b) ""Clinical Establishment"" also includes any other establishment analogous to Medical Laboratory,

Physiotherapy Establishment, Clinic or Hospital, by whatever name it is called. Therefore, a Medical Laboratory, a Physiotherapy Establishment or

Clinic or a Hospital or any other establishment analogous to any of them, by whatever name called, is a Clinical Establishment for the purpose of the

Act and the Rules.

13. ""Nursing Home"" is defined in Section 2(g) of the Act to mean a place where parties are treated as inpatients with facilities for admission as

inpatients for treatment of illness without or with surgery or conduct of delivery and also includes other gynecological operations where women are

received or accommodated for the purpose of sterilization, hysterectomy, or medical termination of pregnancy etc. with or without overnight inpatient

facilities. Nursing Home would include any Inpatient Medical Clinic, Nursing Home, Maternity Home, Hospital, Old Age Homes and Day Care

Centres (any intervention which would require observation and on-going care/ monitoring).

14. The grant or rejection of application for licence depends on the different factors enumerated in Section 6 of the Act. In terms of that Section, one

of the grounds on which an application for grant of licence would be liable to be rejected is that, the applicant or any person employed by him at the

Nursing Home or Clinical Establishment, is not a fit person, whether by reason of expertise, qualification or otherwise to carry on or to be employed at

the Nursing Home or the Clinical Establishment of such a description as the Nursing Home or the Clinical Establishment named in the application.

Therefore, the expertise and qualification of any person who is the applicant for licence or any person employed by him at the Nursing Home or the

Clinical Establishment is a relevant consideration for grant of licence.

15. Rule 10 of the Rules prescribes the standards for every Clinical Establishment. The rigor of Sub-rules (1) to (3) of Rule 10 would show that the

standards prescribed therein are mandatory. Sub-rule (4) of Rule 10 empowers the Supervisory Authority to grant further time for rectification of

matters enumerated in Rule 10(4), insofar as they relate to existing Clinical Establishment. The Rule does not apply to Clinical Establishments set up

after the Act and Rules came into force. That Rules also do not empower the Supervisory Authority to water down the prescribed standards. Rule

10(1) provides that every Clinical Establishment liable to obtain a licence under the Act must fulfill the standards prescribed in Schedule 1. As already

noted above, Clinical Establishment includes, inter alia, a 'Clinic', which term is defined as a premise having facilities for treatment of sick and used for

their reception without stay. The WPCs are filed by persons claiming to run Clinics, but have, admittedly, not obtained registration under the Act.

Schedule 1 of the Rules enumerates the standards for Clinical Establishments.

The standards prescribed for various types of Clinical Establishments are categorised in that Schedule. Category A in that Schedule lays down the

standards for Clinics. We will refer to the relevant requirements among the standards for Clinics. Minimum Infrastructure Requirement including

Location and Surroundings, Building etc.; Space Requirements; Emergency First Aid; Entrance Zone; Outpatient Department; Human Resource;

Support Services and Waste Disposal are enumerated delineating the required standards. Of immediate relevance is 'Human Resource' which is at

Serial No. 5 under Category A in Schedule 1 of the Rules. It provides that Clinical Services shall be provided only by a Qualified Medical Practitioner

as described in the Act. ""Qualified Medical Practitioner"" is defined in Section 2(i) of the Act to mean a Medical Practitioner registered in any State in

India under any law for the time being in force for the registration of Medical Practitioners. Section 6(a) of the Act enjoins, inter alia, that the applicant

or any person employed by him in the Clinical Establishment ought to be a fit person, by reason of, among other things, qualification. Section 6(a) of

the Act read with Rule 10 and the Entry at Serial No. 5 in Section A of Schedule 1 would show that clinical services in a Clinic shall be provided only

by a Qualified Medical Practitioner as defined in Section 2(i) of the Act.

Therefore, the question whether a person providing clinical services in a

Clinic is a Qualified Medical Practitioner in terms of Section 2(i) of the Act, is a ground on which grant or rejection of licence under Section 6 of the

Act would depend. This would apply to all Clinical Establishments including Clinics.

16. As regards Nursing Homes, relevant provisions in the Schedule to the Rules taken alongwith the provisions of the Act definitely lead to the

situation which is not different from what we have found, in terms of law, above. Same principles, as noted above, while considering the laws relating

to Clinics, apply to Nursing Homes which are also covered by the provisions of the Act, though the conditions prescribed for the Nursing Homes are

modulated for those health care institutions. Therefore, no Nursing Home as defined in Section 2(g) of the Act can be set up or run in the State of

Chhattisgarh except with licence and in terms of the Act and the Rules.

17. Reverting to the question of Clinics, as already noted, none of the Petitioners in WPCs has a case that they have setup or are running Clinics with

licence under the Act. None of those Petitioners has a case that the premise utilized by them as Clinic is not a premise with facilities for treatment of

sick and is used for reception of sick and for their treatment, though not for stay. All their Establishments therefore fall within the definition of Clinic

and therefore within the term 'Clinical Establishment' as defined in the Act. Hence, none of the Petitioners in the WPCs is entitled to run any Clinic as

pleaded by them without licence from the Supervisory Authority. Any application for grant of such licence by any of them is not eligible to be

considered for grant of licence without reference to all matters that would arise for consideration in terms of the Act and Rules; in particular, Section

6 of the Act. This includes the question whether the applicant or any person employed by him in the Clinical Establishment, which includes a Clinic, is

a Qualified Medical Practitioner as defined in Section 2(i) of the Act.

The question whether any qualification and registration held out by any such applicant entitles that person to claim to be a Qualified Medical

Practitioner under the Act would depend upon the question whether that person is a Medical Practitioner registered in any State in India under any

law for the time being in force for registration of the Medical Practitioners. This is an issue which is also to be considered on case to case basis by the

Supervisory Authority and such question would arise only when there is an

application for licence in terms of the Act and Rules. The eligibility to

practice different schools of medicine, health care etc. on the strength of degrees and diplomas are held out by the Petitioners in WPCs except WPC

No. 1113 of 2017. Many of those Petitioners have pleaded that they are eligible to practice different schools of medicines and other therapeutic

activities on the strength of such diplomas or certifications by different institutions. The eligibility of each of such person to hold out such qualification,

would be a matter in issue when that person's application for licence under the Act is being considered by the Supervisory Authority. Bereft of any

decision by the Supervisory Authority on any application for licence, such issues do not arise for decision at this stage, though we are not oblivious of

the plea of some of the Petitioners in the WPCs as to non-consideration of applications for licence; which we will deal with as we proceed.

18. As already noted, none of the Petitioners in the WPCs hold licence under the Act and the Rules. That being so, there is no question of their

claiming eligibility to pre-decisional hearing before closing down such illegal and unauthorised Clinical Establishments. When the law forbids a

particular activity by treating such activity as liable to be visited with penalty prescribed by law, it definitely carries with it the eligibility of the State to

enforce prevention and deactivation of such Establishments when they are ex facie in conflict with the law relating to licence. This is all part of the

police powers of the State and is the more important when the subject matter of the licence is a premise to provide services relating to health care,

intricately connected with right to life of every recipient of each such service.

19. Reverting to the provisions of the Act and the Rules, it can be seen that if the Supervisory Authority refuses, cancels, or suspends a licence, the

person aggrieved would have a right of appeal to the State Government, but there is no such right of appeal or right of hearing that can be read in

favour of those who have not obtained licence, but have yet started the activity of Clinical Establishments including Clinics without licence. There is no

provision in the Act which could be characterized as enabling 'deemed licence' in the form of a default clause operating in favour of the applicant for

licence. It would also be an extremely disastrous situation to perceive that there could be any such provision except at the peril of the public at large

which will form the recipient group of medical and health services through those

who run Clinical Establishments and Nursing Homes.

20. We cannot, however, ignore the plea of some of the Petitioners that certain applications made for grant of licence are yet to be considered. It is

noted in paragraph 10 above that some of the Petitioners in the WPCs have pleaded that though they had applied for registration under the Act and

the Rules, those applications are not being considered. As noted in the immediately preceding paragraph, there is no provision in the Act which confers

a 'deemed licence' status to the applicants, even by efflux of time. Having regard to the nature of the Act and the field it relates to, the Supervisory

Authority has the public and statutory duty to decide on the applications for grant of licence expeditiously since grant or rejection of the application

would depend upon various factors which are statutorily enumerated and also because one who intends to set up a Nursing Home or a Clinical

Establishment is forbidden by law from doing so without obtaining the licence. The Act does not prescribe any time frame within which the

Supervisory Authority has to decide on the application for licence. However, there are certain statutory indicators in this regard.

Rule 11 of the Rules prescribes the procedure for issue of licence. Sub-rule (2) of Rule 11 lays down the procedure for licensing of new

Establishments. That would necessarily apply to those Establishments which were not set up before the coming into force of the Rules. Clause (c) of

Sub -rule (2) of Rule 11 provides that the application form must indicate that the date of commencement of the Clinical Establishment which shall not

be less than 30 days from the date of the application. Clause (d) of that Sub-rule requires that the Supervisory Authority shall indicate a tentative date

for inspection in its acknowledgement letter/receipt. These two provisions in Rule 11(2) are clear indicators of the legislative intendment that a

decision on the application for licence is to be issued within a period of 30 days, except in exceptional circumstances. Reasonable situational

requirements including the application, inspection, any rectification as may be suggested, any repeated inspection etc; all taken together; should

necessarily put an outer limit to be within a period of two months from the date of the application.

21. We now revert to WPC No. 1113 of 2017. The Petitioner therein pleads that she has opened a 'blood collection centre' and is since then providing

facility of collection of blood, for which purpose she has engaged trained staff. 'Medical Laboratory' is defined in Section 2(f) of the Act to mean an

establishment manned by qualified pathologist and radiologist where Bio-Medical tests such as hematology, biochemistry, serological tests,

bacteriological, cytology, histology genetic investigations or any other diagnostic tests are carried out. 'Medical Laboratory' falls under the term

'Clinical Establishment' as defined in Section 2(b) of the Act. Therefore, a 'Medical Laboratory' cannot be run without the licence under the Act and

the Rules. The claim of the Petitioner in WPC No. 1113 of 2017 is that she runs a blood collection centre and is competent to run it. The definition of

'Medical Laboratory' has already been noticed. That establishment is one where different activities mentioned in Section 2(f) of the Act could be

carried out. This includes the conducting of bio-medical tests, such as hematology, biochemistry, serological tests etc., which relate to blood. For this,

blood has to be collected from the person who is being subjected to the test. As already noted, Rule 10 of the Rules enjoins that every Clinical

Establishment liable to obtain licence under the Act must fulfill the standards prescribed in Schedule 1 of the Rules. Category B in Schedule 1 of the

Rules deals with 'Medical Laboratory'. Entry at serial No. 1 in that category classifies Pathological Laboratory into 'Small Lab' and 'Large Lab'. Serial

No. 1.6 enumerates the minimum qualification to run a 'Small Laboratory' as well as a 'Large Laboratory'. The minimum qualification to run a Small

Laboratory is an MBBS degree. The minimum qualification to run a Large Laboratory shall be MD/DCP in Pathology. 'Collection Centre' is provided

at Serial No. 1.8. It is part of the different entries falling under the main entry. Pathological Laboratory is at serial No. 1 in Section B of Schedule 1.

The provision at Serial No. 1.8 in Section B is, inter alia, that the 'Collection Centre' should have facilities for collection and storage of samples and

proper transportation of samples from centre to medical lab. The transportation should be done carefully with proper maintenance of cold chain. These

requirements of a collection centre are intricately connected to the activity of Pathological Laboratory which is a Medical Laboratory as defined in the

Act. Therefore, the Collection Centres cannot but be extended limbs of Pathological Laboratories, to facilitate collection of samples and their storage

and to transit. This obviously has to be under the control and responsibility of Pathological Laboratory and, in particular, the control of the Supervisory

Doctor. This is fundamentally so for many reasons, including the need to fix responsibility in case of deficit, neglect or negligence in such

establishments which deal with the critical sector of health care management. The provision in Entry at Serial No. 1.8 in Section B of Schedule 1 of

the Rules that the Collection Centre can be run by a DMLT or a trained nurse is only indicative of the fact that such a person can man the Collection

Centre on behalf of Pathological Laboratory which has to be in control of the Supervising Doctor and other duly authorised persons in control of that

institution as enjoined by the Act and Rules.

Samples which are collected in the Collection Centre has to be stored and properly transported from the centre to the Medical Laboratory carefully,

with proper maintenance of cold chain. It is thereupon that the collected sample could be subjected to the clinical procedures to be carried out in the

Pathological Laboratory. Therefore, the Collection Centre ought to be the Collection Centre of the Pathological Laboratory. There cannot be

independent Collection Centres, which carry out the activity of collecting samples and carrying it to the Medical Laboratory for clinical procedure of

examination. We say this in the context of the plea of the Petitioner that she had opened a 'blood collection centre' and has since then been providing

the facility of collection of blood, and for that she has engaged trained staff. The mere possession of the certificate of DMLT held out by her as

Annexure P/1 is insufficient to run a Collection Centre in the manner pleaded by her. This we say without expressing on the acceptability or otherwise

of her qualification for other purposes as authorised by the Act. Her plea that she is entitled to continue with the Blood Collection Centre which she

had opened is unsustainable. That writ petition therefore fails.

22. In the result,

(i) Writ Petition (PIL) No. 19 of 2017 is ordered making absolute all the directions issued earlier in that case, including that contained in order dated

23.03.2017 quoted above; and directing the State Government of Chhattisgarh and all authorities under it as well as all the duly authorised authorities

and officers under the Chhattisgarh State Upcharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010 and the Rules made

thereunder, to ensure that no Clinical Establishment or Nursing Home as defined under that Act is established or run in the State of Chhattisgarh

without licence in terms of the provisions of that Act and those Rules.

(ii) Writ Petition (C) Nos. 1078 of 2017, 752 of 2017, 1005 of 2017, 970 of 2017, 920 of 2017, 978 of 2017, 982 of 2017, 954 of 2017, 974 of 2017, 967

of 2017, 941 of 2017, 953 of 2017, 977 of 2017, 969 of 2017, 968 of 2017, 942 of 2017, 981 of 2017, 975 of 2017, 976 of 2017, 918 of 2017, 972 of

2017, 956 of 2017, 1075 of 2017, 1094 of 2017, 980 of 2017, 1153 of 2017, 1154 of 2017, 1117 of 2017, 1108 of 2017, 1162 of 2017, 1161 of 2017, 989

of 2017, 979 of 2017, 1101 of 2017, 985 of 2017, 1042 of 2017, 1046 of 2017, 1048 of 2017, 1043 of 2017, 1081 of 2017, 1064 of 2017, 1071 of 2017,

987 of 2017, 1068 of 2017, 1130 of 2017, 1126 of 2017, 1099 of 2017, 1080 of 2017, 1079 of 2017, 1069 of 2017, 1061 of 2017, 1104 of 2017, 1067 of

2017, 1129 of 2017, 1109 of 2017, 1076 of 2017, 1066 of 2017, 1072 of 2017, 992 of 2017, 990 of 2017, 1127 of 2017, 1002 of 2017, 1110 of 2017, 1125

of 2017, 1121 of 2017, 1093 of 2017, 1102 of 2017, 1112 of 2017, 1095 of 2017, 1151 of 2017, 1122 of 2017, 1100 of 2017, 1105 of 2017, 1115 of 2017,

1103 of 2017, 1007 of 2017, 1031 of 2017, 1114 of 2017, 1107 of 2017, 1123 of 2017, 1098 of 2017, 1118 of 2017, 1111 of 2017, 1124 of 2017, 1032 of

2017, 1119 of 2017, 1038 of 2017, 1152 of 2017, 1175 of 2017, 1165 of 2017, 1160 of 2017, 1168 of 2017, 1206 of 2017, 1158 of 2017, 1133 of 2017,

1169 of 2017,1257 of 2017, 1355 of 2017, 1399 of 2017, 1567 of 2017, 1555 of 2017, 1620 of 2017, 1854 of 2017, 1741 of 2017, 1969 of 2017, 2177 of

2017 and Writ Petition (C) No. 2176 of 2017 are ordered holding that the Petitioners therein are not eligible to run their Clinics/Clinical Establishments

without obtaining licence under the Chhattisgarh State Upcharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010 and

directing that the application for grant of licence made by any of those Petitioners, received by the Supervisory Authority concerned and pending, shall

be taken up and acted upon in accordance with law; by passing orders on such application within an outer limit of two months from the date of receipt

of a copy of this order.

(iii) Writ Petition (C) No. 1113 of 2017 is dismissed.

(iv) IA No. 3 of 2017 in WP(PIL) No. 19 of 2017, application for exemption from depositing security amount, is allowed and the Petitioner is

exempted from depositing the security amount.

6. Since the issue has already been settled to rest in terms of the decision and

the reasons which is reflected from the decision of the Division Bench

in Madhukar Dwivedi (supra), therefore, the act of sealing of the clinic of the Petitioner even if he is so-called holder of Electro Homeopathy, by the

Respondent authorities is not only in conformity with the requirements of the Act but also the judgment of the Division Bench. The rationale and

reasons provided by the Division Bench also governs the present writ application, especially when the decision of the Division Bench still holds the

field.

7. The writ application therefore has no merit and it is dismissed since the act of sealing is supported by law.

