
(2012) 04 CAL CK 0014
In the Calcutta High Court
Case No : Writ Petition No. 2924 (W) of 2012

Sneha Saha

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 02-04-2012

Acts Referred:

Constitution of India, 1950 — Article 226

West Bengal Homoeopathic System of Medicine Act, 1963 — Section 21, 23

Citation : (2012) 04 CAL CK 0014

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Anant K. Shaw, Mr Ravi Kumar Dubey, Mr Mainak Ganguly and Mr Puspall Chakraborty, for the Appellant; Debraj Bhattacharyya and Ms Krishna Roy, for the Respondent

Judgement

Jayanta Kumar Biswas, J.—The petitioner in this WP under art. 226 dated February 10, 2012 is seeking the following principal relief:

a) A writ of or in the nature of Mandamus thereby commanding the respondents, their men, agents, servants, subordinates, employees and/or assignees to issue registration in favour of the petitioner in terms of Section 23 read with Section 21 and also in terms of different provisions of the West Bengal Homoeopathic Medicine Act, 1963 and also in terms of the prayer/prayers made by the petitioner, thereby enabling the petitioner to joint the House Staffship forthwith;

Section 21 of the West Bengal Homoeopathic System of Medicine Act, 1963 says who is entitled to registration as a Homoeopathic practitioner. Sub-section(1) of s. 21, being relevant, is quoted below:

(1) Every person who possesses any qualification mentioned in paragraphs 1,2 or 3 of the Schedule shall, subject to the provisions of this Act, and on payment of such fee, as may be prescribed, be entitled to have his name entered in Part A of the Register.

2. Section 23 of the West Bengal Homoeopathic System of Medicine Act, 1963 is quoted below:

23. Information required of applicant for registration,--(1) Every person who desires to have his name entered in the Register shall submit to the Registrar an application in the prescribed form stating-

- (a) particulars of his qualifications,
- (b) the period for which he has been in practice, and
- (c) his address which is to be his registered address.

(2) Every application shall be accompanied by the prescribed fee and such proof as may be available or necessary in support of the qualifications stated in the application.

3. Paragraphs 1,2 and 3 of the Schedule to the Act are quoted below:

1. Any degree or diploma or certificate conferred or granted on passing the final examination held by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, the Council, any University or by any statutory institution recognized by the State Government.

2. Any other diploma or certificate conferred or granted by the Council which is declared by the Council with the approval of the State Government to be a sufficient qualification for registration as a Homoeopathic practitioner.

3. Any degree or diploma or certificate conferred or granted by any University institution or authority within or outside the State:

Provided that such degree or diploma or certificate has been recognized by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, or is recognized by the Council, with the approval of the State Government or by the Central Council as a sufficient qualification for registration as a Homoeopathic practitioner.

4. From the provisions of ss. 21 and 23 of the Act and paras. 1, 2 and 3 of the Schedule to the Act it is evident that only a person who has been conferred with a degree or diploma, or granted a certificate by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, the Council, a university or a statutory institution recognised by the State Government, is entitled to apply for registration under s. 21.

5. The case of the petitioner as argued by Mr Shaw appearing for her is that the document at p. 52 is the requisite certificate granted to her by D.N. De Homoeopathic Medical College & Hospital.

6. The document at p. 52 is an application of the petitioner to the West Bengal University of Health Sciences for admission to BHMS Degree. It contains a certificate that after successfully passing the final BHMS examination, she

completed one year compulsory rotating internship.

7. The document is not a degree or a diploma or a certificate issued by anyone. It is not signed and sealed by anyone. It is not a qualification mentioned in paras. 1, 2 and 3 of the Schedule to the Act. No application pursuant to s. 23 of the Act has been filed to the Council. I am, therefore, unable to see how the petitioner could seek registration under s. 21 of the Act. The allegation of inaction on the part of the Council is baseless. For these reasons, the WP is dismissed making it clear that nothing herein shall prevent the petitioner from obtaining a degree or diploma or certificate pursuant to the provisions of the Schedule and submitting the requisite application for registration to the Council. No costs. Certified Xerox.