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IN THE HIGH COURT OF DELHI AT NEW DELHI
Judgment Reserved on:- 30.05.2025
Date of Decision:- 06.06.2025

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W.P.(C) 10836/2021 & CM APPL. 33340/2022

DR RAGHUNANDAN SHARMA

.....Petitioner

Through: Mr. Ashok Kumar Panigrahi, Ms.
Apurva Upmanyu and Mr. Nabab
Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Chetan Sharma, ASG with
Ms.Monika Arora, CGSC, Mr.
Subhash Tanwar, CGSC Mr.Amit
Gupta, Mr. Naveen, Ms.Bhavi Garg,
Mr.Subhrodeep Saha, Ms.Anamika
Thakur, and Mr.Prabhat Kumar, Advs
for UoI. Ms.Archana Pathak Dave,
ASG with Mr.Kumar Prashant and
Mr.Avnish Dave, Advs for R-2.
Mr.Arun Bhardwaj, Sr.Adv with
Ms.Ruchi Kohli, Sr.Adv, Ms.Ankita
Chaudhary and Mr.Shreyas Balaji,
Advs for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This petition instituted under Article 226 of the Constitution of India as a PIL challenges the appointment of respondent no.3 to the post of President of Board of Ayurveda (*hereinafter referred to as "Board"*) which is an



autonomous Board having been constituted under Section 18 of The National Commission for Indian System of Medicine Act, 2020 (*hereinafter referred to as “NCISM Act, 2020”*). Accordingly, a writ of *Quo Warranto* has been prayed for calling upon respondent no.3 to show as to how is reoccupying the office in question and further to quash his appointment.

2. It has been argued by learned counsel for the petitioner that Section 19(2) of the NCISM Act, 2020 provides that the President and Members of the Board to be chosen, shall be persons of outstanding ability, proven administrative capacity, and integrity, possessing postgraduate degree in respective disciplines and having experience of not less than fifteen years in respective fields, out of which at least seven years shall be as a ‘leader’. Further submission is that proviso appended to Section 19(2) of the NCISM Act, 2020 prescribes the person to be chosen as President and Members of the Board shall have seven years’ experience as ‘leader’ in the area of health, growth and development of education in Indian System of Medicine. According to the petitioner, respondent no.3 does not fulfill the experience of seven years as ‘leader’ as per the prescription available in the proviso appended to Section 19(2) of the NCISM Act, 2020 and hence, he lacks the statutorily prescribed qualification for the post in question and accordingly is an usurper of the office and therefore, his appointment is liable to be quashed and set aside.

3. Learned counsel representing respondent nos.1, 2 and 3 in unison have opposed the prayer made in the writ petition on several grounds, including the ground that the petition is not maintainable, having been filed not for *bona fide* reasons and further that in service matters, as laid down by the Hon’ble



Supreme Court, in its various pronouncements, public interest litigation is not maintainable.

4. Respondents in their counter affidavits have also stated that respondent no.3 has the requisite experience of fifteen years in the relevant discipline, and he also is possessed of seven years of experience as ‘leader’ and therefore, even on merits, the petitioner does not have any case. The prayer, thus, is that the writ petition deserves to be dismissed at its threshold.

5. We have considered and given our anxious consideration to the respective submissions made by learned counsel for the parties and have also perused the records available before us on this writ petition.

6. Since a writ of *Quo Warranto* has been sought in these proceedings, the issue of locus of the petitioner loses its relevance in view of the law laid down by the Hon’ble Supreme Court in ***Rajesh Awasthi v. Nand Lal Jaiswal, (2013) 1 SCC 501*** and ***Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179***, wherein, it has been held that *Quo Warranto* proceedings afford a judicial remedy by which any person who holds and independent substantive public office or franchise or liberty is called upon to show by what right he holds the said office, franchise or liberty so that his title to it may be determined, and in case it is found that holder of office has no title, he would be ousted from that office by a judicial order. In ***Gambhirdan K. Gadhvi (supra)*** it has also been held, referring to ***Retd. Armed Forces Medical Assn. v. Union of India, (2006) 11 SCC 731 (1)*** that strict rules of *locus standi* are relaxed to some extent in a *Quo Warranto* proceedings. Paragraph no.17 of the judgment in ***Gambhirdan K. Gadhvi (supra)*** is extracted herein below: -

“17. In *Armed Forces Medical Assn. v. Union of India* [*Armed Forces Medical Assn. v. Union of India, (2006) 11 SCC 731 (1) : (2007) 1 SCC (L&S) 548 (1)*], it has been observed by this Court that



strict rules of locus standi are relaxed to some extent in a quo warranto proceedings. It is further observed in the said decision that broadly stated, the quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by a judicial order. It is further observed that in other words, the procedure of quo warranto gives the judiciary a weapon to control the executive from making appointments to public office against law and to protect citizens from being deprived of public office to which they have a right. These proceedings also tend to protect the public from usurpers of public office. It is further observed that it will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry, as to, whether, the appointment of the alleged usurper has been made in accordance with law or not.”

7. Accordingly, since in the present proceedings a writ of *Quo Warranto* has been sought, the objection about maintainability of the instant Public Interest Litigation Petition at the instance of the petitioner is therefore, overruled.

8. Having observed as above, we now, proceed to determine as to whether, respondent no.3 fulfils the requisite qualifications as per the statutory prescription available in Section 19(2) of the NCISM Act, 2020.

9. Section 18 of the NCISM Act, 2020 provides that certain Autonomous Boards including the Board of Ayurveda shall be constituted by the Central Government by way of a notification to perform functions which may be assigned to such Boards. Section 18(2) of the NCISM Act, 2020 provides that each Board referred to in Section 18(1) shall be an Autonomous Board which shall carry out its functions under the Act in accordance with the regulations



to be made by the National Commission for Indian System of Medicine which is constituted under Section 3 of the said Act.

10. Section 19 of the NCISM Act, 2020 provides for composition of the Board which consists of a President and four Members from Ayurveda Discipline of Indian System of Medicine.

11. Section 19(2) of the NCISM Act, 2020 provides the President and Members of the Board shall be the persons of outstanding ability, proven administrative capacity and integrity, possessing postgraduate degree in the field concerned from a recognized university and are also having experience of not less than fifteen years, out of which at least seven years shall be as a leader.

12. The proviso appended to Section 19(2) of the NCISM Act, 2020 provides that in case of President seven years of experience shall be in the area of health, growth, and development of education in Indian System of Medicine as leader. Section 19 of the said Act reads as under: -

'19. (1) The composition of the Autonomous Boards shall be as under, namely:-

(a) the Board of Ayurveda shall consist of a President and from Members from the Ayurveda discipline of Indian System of Medicine;

(b) the Board of Unani, Siddha and Sowa-Rigpa shall consist of a President and two Members from each of the Unani, Siddha and Sowa-Rigpa disciplines of Indian System of Medicine;

(c) the Medical Assessment and Rating Board for Indian System of Medicine shall consist of a President and eight Members:

Provided that the President and six out of eight Members shall be chosen from the Ayurveda, Siddha, Sowa-Rigpa and Unani disciplines of Indian System of Medicine in such manner that at least one Member represents each such discipline separately, and the remaining two Members shall be accreditation experts;

(d) the Board of Ethics and Registration for Indian System of Medicine shall consist of a President and eight Members:

Provided that the President and six out of eight Members shall be chosen from the Ayurveda, Siddha, Sowa-Rigpa and Unani disciplines of Indian System of Medicine in such manner that at least



one Member represents each such discipline separately, and the remaining two Members shall be chosen from any of the disciplines of quality assurance, public health, law or patient advocacy.

(2) The President and Members of the Autonomous Boards to be chosen under sub-section (J) shall be persons of outstanding ability, proven administrative capacity and integrity, possessing postgraduate degree in respective disciplines from a recognised University and having experience of not less than fifteen years in respective fields, out of which at least seven years shall be as a leader:

Provided that seven years as leader in the case of the President and Member from Indian System of Medicine shall be in the area of health, growth and development of education in Indian System of Medicine.”

13. Thus, from the perusal of the afore quoted provision of Section 19(2) of the NCISM Act, 2020 what emerges is that for being appointed as President of the Board, candidate concerned should not only have a postgraduate degree to his credit but should also have experience of not less than fifteen years in the field concerned, out of which seven years shall be as a ‘leader’ in the area of health, grown, development of education in Indian System of Education.

14. The petitioner has heavily relied upon details of experience of respondent no.3 as disclosed by the Central Council of Indian Medicine in a reply given under the Right to Information Act, 2005. The details of experience as disclosed in the said reply given by Central Council of Indian Medicine is as follows: -

“Details of Experience

<i>State of Institution</i>	<i>District of Institution</i>	<i>Name of the college</i>	<i>Department(Subject)</i>	<i>Designation</i>	<i>From</i>	<i>To</i>
<i>Karnataka</i>	<i>Bengaluru</i> <i>Others</i>	<i>Sushrutha Ayurvedic Medical College & Hospital</i>	<i>Dravyaguna Vigyana</i>	<i>Assistant Professor/Lecturer</i>	<i>16/Aug/2004</i>	<i>29/Mar/2005</i>
<i>Karnataka</i>	<i>MANGAALORE</i> <i>Others</i>	<i>Karnataka Ayurved College</i>	<i>Dravyaguna Vigyana</i>	<i>Assistant Professor/Lecturer</i>	<i>01/Apr/2005</i>	<i>16/Aug/2009</i>



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Karnataka	MANGALOR E	Karnataka Ayurved College	Dravyaguna Vigyana	Associate Professor/L ecturer	17/Aug/ 2009	20/Mar/ 2015
Tamil Nadu	Coimbatore	Ayurveda College	Dravyaguna Vigyana	Professor	25/Mar/ 2015	02/Apr/2 018
Karnataka	Bengaluru	Sushrutha Ayurvedic Medical College & Hospital	Dravyaguna Vigyana	Professor	04/Apr/2 018	25/Jan/2 019
Karnataka	Bengaluru	Sushrutha Ayurvedic Medical College & Hospital	Dravyaguna Vigyana	Professor	26/Jan/2 019	Till Date

15. Respondent no.1 in its counter affidavit has disclosed the experience of respondent no.3 in two heads, namely, (1) Experience (Academic/Research) and (2) Experience as head of the Department/head of an organization. The experience of respondent no.3 as disclosed in the counter affidavit is as follows: -

“Experience (Academic/Research)”

S. No.	Nature of experience	Designation and Institute of Work	From	To
a)	Before Post Graduation	Physician, Arya Vaidya Pharmacy, Coimbatore	January 2001	December 2001
		Lecturer, Sushrutha Ayurvedic medical College, Bengaluru	16.08.2004	29.03.2005
		Lecturer, Karnataka Ayurveda medical College, Mangaluru	01.04.2005	16.08.2009
		Reader, Karnataka Ayurved Medical College, Mangaluru	17.08.2009	16.08.2014
b)	After Post Graduation	Professor, Karnataka Ayurveda Medical College, Mangaluru	17.08.2014	20.03.2015
		Principal cum Professor, Ayurved College Coimbatore	25.03.2015	02.04.2018
		Principal & Professor Sushrutha Ayurvedic Medical College	04.04.2018	11.01.2021



	<i>Bengaluru</i>		
	<i>Professor & Director, PG Studies, Sushrutha Ayurvedic medical College, Bengaluru</i>	<i>12.01.2021</i>	<i>30/04/2021</i>

Experience as head of the Department/head of an organisation: -

S. No.	Nature of experience	Designation and Institute of Work	From	To
a)	<i>Before Post Graduation</i>	<i>State Organizing Secretary, Samkrita Bharati, Bihar</i>	<i>July 1995</i>	<i>June 1998</i>
		<i>Central Office Secretary, Samkrita Bharati, New Delhi</i>	<i>July 1998</i>	<i>August 1999</i>
		<i>State Organizing Secretary, Samkrita Bharati, Bihar</i>	<i>September 1999</i>	<i>December 2000</i>
b)	<i>After Post-Graduation</i>	<i>Head, Deptt. of Dravyaguna, Karnataka, Ayurved Medical College, Mangaluru</i>	<i>17.08.2009</i>	<i>20.03.2015</i>
		<i>Principal, Ayurveda College, Coimbatore</i>	<i>25.03.2015</i>	<i>02.04.2018</i>
		<i>Principal Sushrutha Ayurvedic Medical College, Bengaluru</i>	<i>04.04.2018</i>	<i>11.01.2021</i>
		<i>Director, Post Graduate Studies, Sushrutha Ayurvedic Medical College Bengaluru</i>	<i>12.01.2021</i>	<i>30/04/2021</i>
		<i>State General Secretary, Vishwa Ayurveda Parishad Karnataka</i>	<i>27.06.2019</i>	<i>Till date of application</i>

16. Respondent no.2 in its counter affidavit has disclosed the experienced being possessed by respondent no.3 in the following terms: -

**“Experience (Academic/Research)**

S. No.	Nature of experience	Designation and Institute of Work	From	To
a)	Before Post Graduation	Physician, Arya Vaidya Pharmacy, Coimbatore	January 2001	December 2001
b)	After Post Graduation	Lecturer, Sushrutha Ayurvedic medical College, Bengaluru	16.08.2004	29.03.2005
		Lecturer, Karnataka Ayurveda medical College, Mangaluru	01.04.2005	16.08.2009
		Reader, Karnataka Ayurved Medical College, Mangaluru	17.08.2009	16.08.2014
		Professor, Karnataka Ayurveda Medical College, Mangaluru	17.08.2014	20.03.2015
		Principal cum Professor, Ayurved College Coimbatore	25.03.2015	02.04.2018
		Principal & Professor Sushrutha Ayurvedic Medical College Bengaluru	04.04.2018	11.01.2021
		Professor & Director, PG Studies, Sushrutha Ayurvedic medical College, Bengaluru	12.01.2021	30/04/2021

Experience as head of the Department/head of an organisation: -

S. No.	Nature of experience	Designation and Institute of Work	From	To
a)	Before Post Graduation	State Organizing Secretary, Samkrita Bharati, Bihar	July 1995	June 1998
		Central Office Secretary, Samkrita Bharati, New Delhi	July 1998	August 1999
		State Organizing	September	December



		<i>Secretary, Samkrita Bharati, Bihar</i>	<i>1999</i>	<i>2000</i>
<i>b)</i>	<i>After Post- Graduation</i>	<i>Head, Deptt. of Dravyaguna, Karnataka, Ayurved Medical College, Mangaluru</i>	<i>17.08.2009</i>	<i>20.03.2015</i>
		<i>Principal, Ayurveda College, Coimbatore</i>	<i>25.03.2015</i>	<i>02.04.2018</i>
		<i>Principal Sushrutha Ayurvedic Medical College, Bengaluru</i>	<i>04.04.2018</i>	<i>11.01.2021</i>
		<i>Director, Post Graduate Studies, Sushrutha Ayurvedic Medical College Bengaluru</i>	<i>12.01.2021</i>	<i>30/04/2021</i>
		<i>State General Secretary, Vishwa Ayurveda Parishad, Karnataka</i>	<i>27.06.2019</i>	<i>Till date of application</i>

17. If we peruse the details of experience disclosed by the Central Council of Indian Medicine in the reply given under Right to Information Act, 2005 what we find is that the said details do not contain the petitioner's experience of working as head of Dravyaguna at Karnataka Ayurved Medical College, Bengaluru from 17.08.2009 to 20.03.2015, and also as Principal Ayurved College, Coimbatore from 05.03.2005 to 02.04.2018, as Principal Sushrutha Ayurvedic Medical College, Bengaluru from 04.04.2018 to 11.01.2021, and



also as Director, Postgraduate Studies, Sushrutha Ayurvedic Medical College, Bengaluru from 12.01.2021 to 31.04.2021.

18. The experience gained by respondent no.3 as head of the department of Dravyaguna Department and as Principal as also as Director, Postgraduate Studies, would in our opinion count as experience as 'leader'. The details of experience as disclosed by Central Council of Indian Medicine as given in its reply under the Right to Information Act, 2005 only discloses the academic designation of respondent no.3 as Assistant Professor/Lecturer, Assistant Professor/Reader, and Professor; it does not however, disclose that while holding these academic positions, respondent no.3 was also Head of the Department and Principal of the colleges concerned. The record available before us, as discussed above, clearly shows that petitioner acquired his BAMS qualification in the year 1993 and MD qualification in the year 2004 whereafter, he worked as Lecturer, Reader, Professor in various medical colleges right from 2004 till the date of advertisement, i.e. 16.01.2021.

19. The record also shows that respondent no.3 while working as Lecturer, Reader, and Professor also worked as Head of the Department and Principal of the colleges where he has been teaching right from the year 2009 till 2021.

20. If we count the service rendered by respondent no.3 as Head of Department of Dravyaguna at Karnataka Ayurvedic Medical College, Bengaluru from the year 2009 and his services rendered thereafter, continuously as Principal of Ayurveda College, Coimbatore and thereafter, Principal Sushrutha Ayurvedic Medical College, Bengaluru and also as Director of Postgraduate Studies, Sushrutha Ayurvedic Medical College, Bengaluru, we find that he has about 12 years of experience of working as Head of the Department/Principle/Director of Postgraduate Studies of various



Ayurvedic Medical Colleges, thus the requirement of experience as a ‘leader’ as prescribed in Section 19 of the NCISM Act, 2020 being seven years, respondent no.3 fulfils the said requirement of experience. Apart from fulfilling the requirement of seven years’ experience as ‘leader’, respondent no.3, ever since he acquired the qualification of BAMS, has been a practitioner in Ayurveda and therefore, he also fulfils the requisite experience of more than 15 years in his field. Additionally, it is not denied that he also has a post graduate degree to his credit in the related discipline.

21. Thus, we find that respondent no.3 at the time the advertisement for the post of President of the Board was made, fulfilled the requisite qualification including the requisite experience and therefore, it cannot be said that he has been appointed on the post in question de hors the statutory prescription and he cannot be termed as usurper of the office in question.

22. For the aforesaid reasons, we find that the writ petition lacks merit which resultantly, is hereby dismissed along with pending application(s).

23. There will be no order as to costs.

**(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE**

**(TUSHAR RAO GEDELA)
JUDGE**

JUNE 06, 2025/MJ