

Bihar Development Of Homeopathic System Of Medicine Act, 1953

24 of 1953

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Bihar Development Of Homeopathic System Of Medicine Act, 1953

24 of 1953

PREAMBLE

An Act to provide for the development of the homeopathic system of medicine and to regulate its teaching and practice in the State of Bihar.

Whereas it is expedient to provide for the development of the homeopathic system of medicine and to regulate its teaching and practice in the State of Bihar;

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Bihar Development of Homeopathic System of Medicine Act, 1953.

(2) It extends to the whole of the State of ¹Bihar.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.

1. Ed.-This may now be read as "Jharkhand".

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context:-

(a) "Board" means the Bihar State Board of Homeopathic Medicine constituted under Section 3;

(b) "Homeopathic practitioner" means a practitioner of the homeopathic system of medicine;

(c) "Homeopathic" means the system of medicine founded by Dr. Hahnemann or the allied system of bio-chemistry founded by Dr. Schuessler, and the expression "homeopathic" shall be construed accordingly;

(d) "member" means a member of the Board;

(e) "prescribed" means prescribed by rules made by the State Government under this Act;

(f) "President" means the President of the Board;

(g) "register" means a register of homeopathic practitioners maintained under Section 21;

(h) "registered homeopathic practitioner" means a homeopathic practitioner whose name is for the time being entered in the register under Section 22;

(i) "Registrar" means the Registrar appointed under Section 19; and

(j) "regulations" means regulations by the Board under this Act.

CHAPTER 2 ESTABLISHMENT AND CONSTITUTION OF BOARD

3. Establishment and Constitution of Board :-

(1) The State Government may, by notification, establish a Board to be called the Bihar State Board of Homeopathic Medicine

consisting of-

- (a) President to be nominated by the State Government;
- (b) four members to be nominated by the State Government;
- (c) seven members to be elected in the prescribed manner by the registered homeopathic practitioners from amongst themselves;
- (d) two members to be elected by the Bihar Legislative Assembly from amongst its members in the prescribed manner;
- (e) one member to be elected by the ¹Bihar Legislative Council from amongst its members in the prescribed manner; and
- (f) two members to be elected in the prescribed manner by the members of the Homeopathic Association or Associations recognized by the State Government for the State of ¹Bihar:

Provided that, when the Board is established for the first time, the President to be nominated under clause (a) and the members to be nominated under clause

(b) and the members to be elected under clause (c), clause (d) clause (e) or clause

(f) shall be appointed by the State Government and the Board as so constituted shall hold office for a period of three years from the date of the publication of the names of the President and members in the Official Gazette under Section 6 or such further period as the State Government may by notification, fix.

(2) The Board shall be a body corporate and shall have perpetual succession and a common seal with power to acquire and hold

property, both movable and immovable and to transfer any such property subject to the prescribed conditions and shall, by the said name, sue or be sued.

1. Ed.-This may now be read as "Jharkhand".

4. Nomination of members in default of election :-

If at any election any of the electorates specified in clauses (c), (d), (e) and (f) of sub-section (1) of Section 3 fails by such date as may be prescribed to elect the requisite number of members or on the occurrence of any casual vacancy, to fill such vacancy as provided in Section 9, the State Government shall nominate a person or persons possessing the requisite qualifications to fill such vacancy or vacancies from among the registered homeopathic practitioners or the members of the ¹Bihar Legislative Assembly or the ²Bihar Legislative Council or the members of the Homeopathic Association or Associations recognized by the State Government for the State of ¹Bihar, as the case may be, and the person or persons so nominated shall be deemed to have been duly elected under Section 3.

1. This may now be read as "Jharkhand"

2. Not relevant for Jharkhand.

5. Term of office of members :-

Save as otherwise provided by this Act, the term of office of nominated and elected members of the second and every subsequent Board shall be for a period of three years from the date of publication of their names in the Official Gazette under Section 6 and shall include any further period which may elapse between the expiration of the said period of three years and the date of the first meeting of the next succeeding Board at which a quorum is present.

6. Publication of names of President and members :-

The names of President and of any member nominated or elected under Section 3 or nominated under Section 4 shall be published by

the State Government in the Official Gazette.

7. Resignation of a member :-

(1) Any member may at any time resign his office by a letter addressed to the President. Such resignation shall take effect from the date on which it is accepted by the Board.

(2) The President may at any time resign his office by a letter addressed to the State Government. Such resignation when accepted, shall be published in the Official Gazette and shall take effect from the date notified therein.

8. Removal of President and members from office :-

(1) The Board may remove from office any member who-

(a) absents himself from three consecutive meetings of the Board without such reasons as may in the opinion of the Board be sufficient; or

(b) is or becomes subject to any of the disqualifications specified in Section 11; or

(c) refuses to act or becomes incapable of acting; or

(d) being a legal practitioner appears in any suit or proceeding, civil or criminal, against the Board:

Provided that before any member is removed from office, the Board shall call for an explanation from him and record its findings.

(2) Any member removed from office by the Board under subsection (1) may, within thirty days from the date of his removal, appeal to the State Government and the order of the State Government on any such appeal shall be final.

(3) The State Government may remove the President from office on any of the grounds specified in sub-section (1) after calling for an explanation from him.

9. Filling of casual vacancies :-

If the President or any member is unable by reason of his death, resignation, removal or otherwise to complete his full term of office, the vacancy so caused shall be filled by nomination or election as the case may be, of another person within the prescribed period and the person so nominated or elected shall fill such vacancy for the term for which the member in whose place such person is nominated or elected would otherwise have continued, in office:

Provided that, in the case of an elected member, if the vacancy is for a period of six months or less, the Board may direct that the vacancy be left unfilled until next general election.

10. Eligibility of members for re-election :-

A member shall on the expiry of his term of office be eligible for re-nomination or re-election:

Provided that no person shall hold office as President or the Board for more than two consecutive terms.

11. Disqualification for membership :-

No person shall be eligible for election or nomination as a member-

(a) who is less than twenty five years of age;

(b) who is of unsound mind and stands so declared by a competent Court;

(c) who is an employee of the Board;

(d) who has applied for being adjudged an Insolvent or is an undischarged Insolvent;

(e) who has been convicted of any offence under this Act;

(f) who has been convicted of an offence involving moral turpitude which, in the opinion of the State Government, unfits him to hold office;

(g) who has, on any previous occasion, been removed from office under Section 8;

(h) whose name has been removed from the register; or

(i) who has, directly or indirectly, any share or interest in any contract with, by or on behalf of, the Board:

Provided that the State Government may, in any particular case, remove this qualification.

12. Allowance to members :-

(1) There shall be paid to the President and members such travelling and other allowances as may be prescribed.

(2) No member shall receive any pay or special pay as a member or President.

CHAPTER 3 CONDUCT OF BUSINESS

13. Meetings of Boards :-

(1) The Board shall have an office at ¹Patna and shall meet as such time and place, and every meeting of the Board shall be summoned

in such manner, as may be provided by regulations:

Provided that until regulations are made, it shall be lawful for the President to summon a meeting of the Council at such time and place as he may deem expedient by a letter addressed to each member on a clear notice of fifteen days.

(2) No business shall be transacted at any meeting of the Board unless six members are present:

Provided that in an adjourned meeting, all business postponed for want of quorum at the original meeting may be transacted, if not less than three members attend such meeting.

1. Ed.-This may now be read as "Ranchi".

14. President to preside at meetings :-

The President shall preside at every meeting of the Board. In the absence of the President, the members present shall elect one from amongst themselves to preside at the meeting.

15. Decision by vote :-

(1) All questions which may come before a meeting of the Board shall be decided by a majority of the votes of the members present and voting.

(2) In case of equality of votes, the President of the meeting shall have a second or casting vote.

16. Minutes of proceedings :-

(1) Minutes of the proceedings of all meetings of the Board shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting.

(2) A copy of the minutes of the proceedings of every meeting of the Board shall, within fifteen days from the date of the signature of the President on the minutes, be forwarded by the President to the State Government or to such authority as the State Government may direct.

17. Establishment of Advisory Committees :-

(1) Subject to the rules made by the State Government in this behalf, the Board may, by resolution, appoint an Advisory Committee which may consist of as many of its own members or outsiders co-opted, or both, as it may decide, for any purpose provided for in this Act.

(2) The Board may appoint a Convenor who shall preside at the meeting of such Committee. In the absence of the Convenor, the members present shall elect from amongst themselves to preside at the meeting.

(3) All questions at a meeting of the Committee shall be decided by a majority of the votes of the members present and voting at the meeting. In case of equality of votes, the person presiding shall have a second or casting vote.

(4) No business shall be transacted at any meeting of the Committee when either less than two members or less than one fourth of the members constituting the Committee, whichever is more, are present.

(5) The proceedings of every meeting of the Committee shall be laid before the Board which may take on such proceedings such action as it deems fit.

(6) The members of the Advisory Committee shall be paid such travelling and other allowances as may be payable to the members

of the Board under Section 12.

(7) The disqualifications specified in Sections 8 and 11 shall apply mutatis mutandis to the members of an Advisory Committee.

18. Validity of proceedings :-

(1) No disqualification of or defect in the election or nomination of, any person acting as the President or a member of the Board or as the presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Board in which such person has taken part, if the majority of persons who took part in such act or proceeding were duly qualified members of the Board.

(2) No act or proceeding of the Board shall be deemed to be invalid only by reason of the existence of a vacancy in the Board.

CHAPTER 4 STAFF AND MEDICAL REGISTRATION AND FUNCTIONS OF THE BOARD

19. Registrar and other officers and servants of the Board :-

(1) The State Government shall appoint a Registrar who shall be the Secretary to the Board.

(2) The salary, allowances and other conditions of service of the Registrar shall be such as may be determined by the State Government.

(3) (i) The Board may, from time to time, appoint such other officers and servants as may be necessary for carrying out the purposes of this Act:

Provided that the number and designation of such officers and servants, their salaries and allowances shall be subject to the previous approval of the State Government.

(ii) The punishment, dismissal, discharge and removal of any such officer or servant shall be subject to rules made by the State Government in this behalf.

(4) All questions of pay, allowances, promotions, leave, pensions and provident fund relating to the officers and servants, other than the Registrar of the Board shall be governed by rules generally applicable to the servants of the State Government of a similar status.

(5) The Registrar or any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

(6) All officers and servants of the Board shall be under the direct control and supervision of the President.

20. Power and duties of Registrar and other officers and servants of the Board :-

(1) The Registrar and other officers and servants of the Board shall exercise such powers and perform such duties as may, from time to time, be conferred or imposed on them by this Act or rules or regulations made thereunder or by any general or special orders of the Board.

(2) The Registrar may take part in the discussion before the Board, but shall not be entitled to vote.

21. Registrar :-

(1) Subject to the provisions of this Act and subject to any general or special orders of the Board, it shall be the duty of the Registrar to maintain the register of registered homeopathic practitioners

and, from time to time, revise the same.

(2) The Register shall be kept in such form as may be prescribed and shall contain the name, address and qualifications of every registered homeopathic practitioner together with the date on which such qualifications were acquired.

(3) The Board may direct that any alteration in the entries, as respects additional qualifications, shall not be made except on payment of such fees as may be prescribed.

22. Registration :-

(1) Every person who passes a qualifying examination under Section 31 or 32 shall be entitled to have his name entered in the register.

(2) Notwithstanding anything contained in sub-section (1), every person-

(i) whose name has been entered in the list prepared under Section 29 and who proves to the satisfaction of the Registrar that he has passed the Matriculation examination or any equivalent or higher examination and has been practicing as a whole time or part time practitioner of the homeopathic system of medicine for a period of not less than three years on the first day of January, 1954; or

(ii) who, in the opinion of the Board, is a fit person to be entered in the register by virtue of his eminent position as a whole time or part-time practitioner of the homeopathic system of medicine for a period of not less than three years on the first day of January, 1954 and who has applied for the registration of his name in the register before such date as may be notified in this behalf by the State Government in the Official Gazette, shall be entitled to have his name entered in the register.

(3) Every person who is entitled to be registered under sub-section (1) or (2) and who applies for the registration of his name shall be liable to pay twenty five rupees as registration fee.

(4) The names of persons whose names have been entered in the register and the name of those whose applications have been rejected shall be published by the Registrar in the Official Gazette.

23. Appeal to the Board from the decision of Registrar :-

(1) Any person aggrieved by any decision of the Registrar regarding the registration of any person or the making of any entry in the register may within ninety days of the publication of the names under sub-section (4) of Section 22, appeal to the Board.

(2) Such appeal shall be heard and decided by the Board in the prescribed manner.

(3) The Board may, of its own motion, or on application by any person, after due and proper inquiries and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, if, in the opinion of the Board, such entry was fraudulently or incorrectly made.

24. Registrar to keep the register correct and up-to-date :-

The Registrar may, with a view to keeping the register correct and up-to-date, from time to time, remove from the register names of such registered homeopathic practitioners as the address which is entered in the register to inquire whether he has ceased to practice or has changed his residence, and if no reply is received to the said letter within three months, the Registrar may issue a reminder within two months from the date of its issue, he may remove the name of the said practitioner from the register:

Provided that the Registrar may, if he thinks fit, direct that the name of the said practitioner be re-entered in the register on payment of the prescribed fee.

25. Report of death to the Registrar and removal of names from register :-

(1) Every Registrar of Deaths who receives notice of the death of a person whose name he knows to be entered in the register shall forthwith transmit by post or otherwise to the Registrar a certificate of such death, signed by him and stating particulars of the time and place of death.

(2) On receipt of such certificate, or other reliable information regarding such death, the Registrar shall remove the name of the deceased person from the register.

26. Prohibition of entry in, or removal from, the registers :-

(1) The Board may prohibit the entry in, or order the removal from, the register, the name of any homeopathic practitioner-

(a) who has been sentenced by a Criminal Court in any of the States of India to imprisonment for offence declared by the State Government to involve such moral turpitude as would render the entry or continuance of his name in the register undesirable; or

(b) whom the Board after inquiry has found guilty of professional misconduct or other infamous conduct by a majority of at least two thirds of the members present and voting in the meeting specially convened for the purpose:

Provided that the Board may entrust such inquiry to a Special Committee which shall submit a report to the Board regarding the conduct of the homeopathic practitioner concerned.

(2) The inquiry referred to in clause (b) of sub-section (1) may be in the discretion of the Board or the Committee as the case may be, held in camera and an opportunity shall be given to the homeopathic practitioner to be heard in his defense either personally or through an authorized agent.

(3) The Board may direct that the name of any person against whom an order has been made under sub-section (1) shall be entered or re-entered, as the case may be, after having satisfied itself that due to the lapse of time or otherwise, the disability mentioned in sub-section (1) has ceased to have any force.

27. Procedure in inquires :-

For the purpose of any inquiry held under clause (b) of sub-section (1) of Section 26, the Board or the Committee, as the case may be, shall exercise the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850 and the provisions of Sections 5, 8 to 10, 14 to 16, 19 and 20 of the said Act, so far as may be apply to every such inquiry.

28. Publication of names entered in the register :-

(1) The Registrar shall in every year from time to time as occasion may require, on or before a date to be fixed in this behalf by the Board, publish in the Official Gazette and in such other manner as the Board may direct a correct list of names for the time being entered in the register setting forth-

(a) all names entered in the register arranged in alphabetical order;

(b) the registered address or appointment of each person whose name is entered in the register; and

(c) the registered title and qualifications of each such person and the date on which each such title was granted or each such

qualification was certified.

(2) In every year in which such list has not been published, the Registrar shall cause to be printed and published, on or before a date fixed as aforesaid, supplementary list setting forth:-

(a) the particulars specified in clauses (a) to (c) of sub-section (1), in the manner therein laid down, in regard to the persons whose names have been entered in the register during the year to which such supplementary list appertains; and

(b) the names of persons whose names have been removed from the register under any of the provisions of this Act during the said year.

(3) In any proceeding, it shall be presumed that every person entered in such list is a registered homeopathic practitioner and that any person not so entered is not a registered homeopathic practitioner:

Provided that in the case of a person whose name has been entered in the register after the last publication of the list, a certified copy, signed by the Registrar, of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

29. Preparation and maintenance of list of persons in practice on the first day of January, 1954 :-

(1) The Registrar shall prepare a list of persons practicing in the State the homeopathic system of medicine on the first day of January, 1954, or any other date which may be notified in this behalf by the State Government in such manner as it thinks fit.

(2) Any person desirous of getting his name entered in the list referred to in sub-section (1) shall submit an application in the

prescribed form together with the prescribed fee to the Registrar before such date as may be notified in this behalf by the Registrar.

(3) The Registrar, after making such inquiry as he deems fit, may either enter the name of the applicant in the list or reject the application. The names of persons whose names have been entered in the list and of those whose applications have been rejected shall be published in the Official Gazette.

(4) The provisions of Section 23 shall apply mutatis mutandis to any order passed by the Registrar under sub-section (3).

30. Registered practitioners certificate :-

Notwithstanding anything contained in any law for the time being in force:-

(a) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognized by law as a medical practitioner or a member of the medical profession, shall, in all enactments for the time being in force in the State of ¹Bihar, in so far as such enactments relate to any of the matters specified in the State List or the Concurrent List appended to the Seventh Schedule to the Constitution of India, be deemed to include a registered homeopathic practitioner;

(b) a registered homeopathic practitioner shall be eligible to hold any appointment as a Medical Officer in any dispensary, hospital, infirmary or lying-in-hospital supported by or receiving a grant from the State Government or any local authority and treating patients according to the homeopathic system of medicine;

(c) a certificate required by any Act under any law or rule having the force of law from any medical practitioner or medical officer shall be valid, if such certificate has been granted by a registered homeopathic practitioner.

1. Ed.-This may now be read as "Jharkhand".

31. Board to hold examination to test practitioners refused registration :-

(1) The Board shall, at any time within a period of three years after the date of the publication of the list of persons practicing in the State of (Ed.-This may now be read as "Jharkhand") Bihar the homeopathic system of medicine on the first day of January, 1954, under Section 29 or any other date notified thereunder, arrange, after giving such previous notice as it thinks fit, to hold examinations of all homeopathic practitioners who do not possess the registrable qualification specified in Section 22 or whose claim for registration has been refused under the foregoing provisions of this Chapter.

(2) The Board shall, by regulations, among others lay down the qualifications required, and the fee to be paid, for admission to such examination, the subjects in which the examination shall be held, and the minimum standard of proficiency necessary to pass the examination.

(3) Any person who is declared by the Board to have passed the qualifying examination may, subject to the other provisions of this Chapter, be entitled to have his name entered in the register.

32. Qualifying examination :-

(1) The Board shall, by regulations, lay down the qualifications required for admission to a course of training in the homeopathic system of medicine, the course of such training and the qualifying examinations and may establish and finance homeopathic dispensaries, hospitals, educational Institutions in homeopathy to give such training and shall hold such examinations, grant certificates and confer degrees or diplomas.

(2) The Board may prescribe additional courses of study in different branches of medical science.

(3) It shall be the duty of the Board to secure the maintenance of an adequate standard of proficiency for the practice of the homeopathic system of medicine and, for the purpose of securing such standard, the Board shall have authority to call on the governing body or the authorities of any Institution giving Instruction in such system:

(a) to furnish such particulars as the Board may require of any course of study prescribed by regulations, and

(b) to permit Inspectors appointed by the Board to inspect the Institutions.

32A. Power of the State Government to direct the Board to cease to perform certain functions :-

¹[The State Government may by notification or notifications published from time to time, in the official Gazette direct that the Board shall cease to perform all or any of the functions under section 32 as may be specified therein.

1. Inserted. by Act 5 of 1976.

33. Appointment of Inspectors :-

(1) The Board may appoint such number of Inspectors as it may deem fit on such salary as the Board may, with the previous sanction of the State Government, determine.

(2) Such Inspectors shall, in accordance with the general or special directions of the Board given from time to time inspect the Institutions established by or affiliated to the Board and they shall report to the Board in regard to the courses of study pursued and

training imparted at every Institution which they Inspect and on any other matters with regard to which the Board may require them to report.

34. Granting recognition and withdrawing it :-

(1) The Board may grant recognition to any Institution imparting Instruction to students for preparing them for the qualifying examination if it is satisfied that the Instruction imparted in such Institution comes up to the standard requisite for such recognition, and may at any time suspend or withdraw such recognition if, in the opinion of the Board, the Institution is unable to impart Instruction of the requisite standard:

Provided that the Board shall not order the suspension or withdrawal of such recognition without affording the committee of management of such Institution an opportunity of making such representation as it may deem fit.

(2) An appeal shall lie to the State Government from the decision of the Board suspending or withdrawing the recognition within thirty days from such decision.

35. Other powers of the Board :-

The Board shall have the following other powers, namely:-

(1) to Institute exhibitions and award medals thereat and also to grant scholarships and medals to those who obtain a high position at the examinations held by the Board or are poor and deserving and, with the sanction of the State Government, to grant to students scholarships for special study in research and manufacture of homeopathic medicine in any medical Institution or reputed firm that the Board may think fit, whether in India or abroad, and to endow Chairs of Homoeopathy in the Institutions established or recognized by the Board;

(2) to demand and receive from students fees as may be prescribed for admission to the examinations held by the Board;

(3) to exercise general supervision over the residential and disciplinary arrangements made by the Institutions established or recognized by the Board and to make arrangements for promoting the health and general welfare of students receiving Instruction in such Institutions;

(4) to appoint examiners and publish the results of the examinations held by the Board;

(5) to distribute, subject to rules made by the State Government, grants out of the funds placed by the State Government at the disposal of the Board to homeopathic dispensaries, hospitals and Institutions imparting Instruction in homoeopathy and to suspend or withdraw grants to any such Institution after affording the committee of management of such Institutions an opportunity of making such representations as it may deem fit;

(6) to establish or aid research Institutions and to arrange for postgraduate study in the science of homoeopathy and to encourage scientific manufacture of homeopathic medicines in the State;

(7) to register and issue licenses on payment of such fee as may be prescribed by regulations to reliable firms for sale of homeopathic medicines;

(8) to establish, with the previous approval of the State Government, a Medical Faculty of Homeopathy;

(9) to negotiate with any homeopathic medical authority outside the State, whether in India or abroad, for the reciprocal recognition of the medical qualification and to advise the State Government to

take necessary steps in respect thereof;

(10) to publish periodically homeopathic journals, and to circulate copies thereof among registered homeopathic practitioners on payment of suitable subscriptions; and

(11) to do such acts, not inconsistent with the provisions of this Act, as may be necessary for the furtherance of the objects of the Act.

36. Certificate of registration and renewal thereof :-

(1) The Registrar shall grant or cause to be granted to any person whose name has been initially entered in the register under Section 22 a certificate of registration.

(2) On or before the 15th day of January in each year, every person whose name is for the time being entered in the register may apply in the prescribed form for the renewal of his certificate of registration and pay a fee of five rupees or any higher amount of fee which the Board may, with the previous sanction of the State Government, fix, and thereupon the Registrar shall renew the certificate of registration which shall remain valid until the 31st day of December of that year.

(3) If any person as aforesaid fails to comply with all or any of the requirements of the last foregoing sub-section on or before the first day of February in any year, the Registrar shall, by notice in writing require him to comply therewith, and if he fails to do so within one month from the date of the notice, or within such further time as the Registrar may in special circumstances allow, shall cause his name to be removed from the register.

CHAPTER 4A Chapter IVA

36A. Functions and powers of Universities with respect to Institutions imparting training in homeopathic system of

medicine :-

1[CHAPTER IV A

(1) A University established by law in the State of Bihar may also recognize educational institutions to give training in and lay down a course of training in homeopathic system of medicine, prescribe qualifications for admission to such a course, hold examination and confer, grant or issue degrees, diploma or certificates in the homeopathic system of medicine and frame rules and do such other acts as may be necessary for the above purposes.

(2) Every person who has been conferred, granted or issued a degree, diploma or certificate in the homeopathic system of medicine by a University shall be entitled to have his name entered in the register referred to in Section 22.

(3) An University may grant recognition to educational institutions for imparting instruction and for preparing students for examinations referred to in sub-section (1) and may suspend or withdraw such recognition if in the opinion of the University the statutes, ordinances, regulations or instructions of the University have not been satisfactorily complied with by the institution.

(4) An educational institution recognized by a University under sub-section (2) shall have the same relationship with the University as any college admitted to the privileges of the University with such modification, if any as the University may, from time to time, decide to make.

1. Chapter IV A along with Sections 36A and 36B inserted by Act 5 of 1976.

36B. Power of the State Government to provide for recognition by University of institutions on areas outside the territorial jurisdiction of such University :-

Notwithstanding anything to the contrary contained in any other law for the time being in force, the State Government may by notification in the official Gazette, provide for recognition by a University of an institution imparting instruction in homeopathic system of medicine even though such institution lies beyond the territorial jurisdiction of the University and irrespective of whether it has been functioning under any other University:

Provided that such notification shall issue only in cases where the University in whose territorial jurisdiction the institution lies, does not perform the functions enumerated in clause, (1) of section 36A with respect to that institution.

CHAPTER 5 FINANCES OF THE BOARD

37. Homeopathic Fund :-

There shall be established a fund to be called the Homeopathic Fund which shall be vested in the Board and there shall be placed to the credit thereof-

(a) all sums allotted to the Board out of the Consolidated Fund of the State by the State Government and all sums borrowed by the Board for the purpose of carrying out the provisions of this Act;

(b) all fees received by the Board on account of the registration of homeopathic practitioners and renewal of their certificates of registration or on account of the entry of the names of persons in the list to be prepared under Section 29, admission to the examinations held by the Board and licensing of firms for sale of homeopathic medicines and drugs under this Act;

(c) all contributions or subsidies received from any local authority or private persons; and

(d) all sums realized as costs or otherwise under this Act, or rules or regulations framed thereunder, not being fines or penalties.

38. Lump sum allotment and control over funds :-

(1) The State Government may place a lump sum allotment at the disposal of the Board every year for distribution according to rules to the homeopathic dispensaries and institutions in the State imparting instruction in homoeopathy or carrying on any other activity connected with the aims and objects of the Act.

(2) The Board shall administer, subject to any general or special orders of the State Government, any funds placed at its disposal by the State Government for specific purposes.

39. Annual estimate of income and expenditure :-

(1) The President shall, at a meeting to be held in the month of December in each year, lay before the Board an estimate of the income and expenditure of the Board for the ensuing financial year.

(2) Every such estimate shall make provision for the fulfillment of all the liabilities of the Board and for the efficient administration of the Act.

(3) Every such estimate shall be prepared in such form and shall contain such details as the State Government may from time to time, direct.

(4) A copy of every such estimate shall be sent to each member at least fourteen clear days before the date of the meeting at which the estimate is to be laid before the Board.

40. Consideration of estimates by Board and its submission to the State Government :-

(1) The Board shall consider every estimate so laid before it and

shall sanction the same, either without alteration or with such alterations as it may think fit.

(2) Every such estimate, as sanctioned by the Board, shall be submitted to the State Government which may at any time within one month after the receipt of the same -

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof and return the estimate to the Board for amendment.

(3) If any estimate is so returned to the Board, it shall forthwith proceed to amend it and shall re-submit the estimate, as amended, to the State Government for such order as it deems fit and the order of the State Government thereon shall be final.

41. Restrictions of expenditure not included in the budget :-

(1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget grant or can be met by re-appropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below such amount as may, from time to time, be fixed by the State Government.

42. Objects to which Homeopathic Fund may be applied :-

The Homeopathic Fund shall be applicable to the following subjects, and in the following order:-

(a) to the repayments of debts incurred by the Board for the purposes of this Act;

(b) to the payment of the salaries and allowances of the Registrar, Inspectors and of the establishments employed by the Board for the purposes of this Act and to the payment of any provident fund contributions to the Registrar, Inspectors and to the members of such establishments;

(c) to the payment of the travelling and other allowances of the President and members of the Board;

(d) to the payment of the travelling and other allowances of the members of the committees appointed by the Board;

(e) to the payment of the cost of audit of the Homeopathic Fund;

(f) to the expenses of any suit or proceeding to which the Board is a party;

(g) to any object which may be declared by the Board at a meeting specially convened for the purpose, by a resolution in favor of which not less than two-thirds of the members present at such meeting shall have voted, to be an object to which the Homeopathic Fund may be applicable; and

(h) to the payment of any other expense incurred by the Board in carrying out the provisions of this Act.

43. Audit :-

The accounts of the Board shall be subject to audit under the ¹Jharkhand and Orissa Local Fund Audit Act, 1925 (Part II) and for the purposes of the said Act, the Board shall be deemed to be a local authority whose accounts have been declared by the State Government to be subject to audit under Section 3 of the said Act and the funds in the hands of the Board shall be deemed to be a

local fund.

1. Ed.-Substituted for Bihar and Orissa Local Fund Audit Act, 1925 in view of adaptation of this Act by the State of Jharkhand vide Notification No. 5-01/2001/10fo dated 31.3.2001.

CHAPTER 6 MISCELLANEOUS

44. Reservation of certain appointments to registered homeopathic practitioners who have qualified themselves from institutions established or recognized by the Board :-

Except with the special sanction of the State Government, no homeopathic practitioner, other than a registered homeopathic practitioner who has qualified himself from an institution established or recognized by the Board, shall be competent to hold an appointment as medical officer or health officer or as physician, or other medical officer in a homeopathic hospital maintained or aided by the State Government or any local authority:

Provided that registered homeopathic practitioners in the employ of the State Government or a local authority on the date on which this Act comes into force shall continue to hold the said appointments.

45. Bar to suits and other legal proceedings :-

(1) No suit or other legal proceeding shall lie against the State Government in respect of an act done in the exercise of the powers conferred by this Act or under the rules or regulations made thereunder.

(2) No suit or other legal proceeding shall be maintainable against the Board or any member or any officer or servant of the Board or any person acting under the direction of the Board or of President or any officer or servant of the Board in respect of anything in good faith done or intended to be done under this Act or under the rules or regulations made thereunder.

46. Mode or proof of Boards records :-

A copy of any proceeding, receipt, application, plan, notice, order or any entry in a register or other document in the possession of the Board shall, if duly certified by the Registrar or other person authorized by the Board in this behalf, be received as prima facie evidence of the existence of such proceeding, receipt, application, plan, notice, order or entry and of the matters therein recorded in every case where and to the same extent as the original proceeding, receipt, application, plan, notice, order or entry would, if produced, have been admissible to prove such matters.

47. Restriction on the summoning of Boards servants to produce documents :-

No member or officer or servant of the Board shall in any legal proceeding to which the Board is not a party be required to produce any register or document or to appear as a witness to prove the matters recorded therein unless by order of the Court made for special reasons.

48. Cognizance of offence :-

(1) No Court other than the Court of a Magistrate of the first class shall take cognizance of, or try an offence under this Act.

(2) No Court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by rules made in this behalf.

49. Conferring, granting or issuing of diploma, license, etc., by unauthorized person :-

(1) No person, associated or institution other than the Board or a University, shall confer, grant or issue any degree, diploma, license, or certificate which is identical with, or is a colorable imitation of any degree, diploma, license or certificate granted by the Board or University.]

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to one thousand rupees and, if the person so contravening is an association, who knowingly or willfully authorizes or permits the contravention, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

50. False assumption of degree, diploma or certificate to be an offence :-

1[Whoever willfully or falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted or issued by the Board or a University under this Act, or that he is registered homeopathic practitioner or that he has entered in the list maintained under Section 29 shall, on conviction, be punishable with fine which may extend to hundred rupees for first offence and with a fine which may extend to five hundred rupees for every subsequent offence.]

1. Substituted by Act 5 of 1976.

51. Power to supersede the Board :-

If at any time it appears to the State Government that the Board has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Act or has failed to perform any of the duties imposed upon it by or under this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Board and if the Board fails to remedy such failure, excess or abuse within such time as the State Government may fix in this behalf, dissolve the Board and cause all or any of the power and duties of the Board to be exercised and performed by such persons and for such period not exceeding six months as it may think fit and shall take steps to bring into existence a new Board.

52. Power to make regulations :-

22. Power to make regulations .

(1) The Board may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act or the rules made thereunder, for any of the following matters, namely:-

(a) the time and place at which the Board shall hold its meetings under Section 13 and the manner in which such meetings shall be convened;

(b) the salary and allowances of officers and servants of the Board, other than the Registrar or Inspector, under Section 19;

(c) the procedure to be followed by the Registrar in making an inquiry under the provisions of Sections 22 and 29;

(d) the qualifications required and the fee to be paid for admission into the test examination held under Section 31 and the subjects in which examination shall be held and the requisite standard of proficiency to attain success at such examination;

(e) the course of study for training and qualifying examination held under Section 32, the language in which the examination shall be conducted and instruction shall be given;

(f) the admission of students to the bodies or institutions recognized under Section 34;

(g) the conditions under which students shall be admitted to courses for the degree, diploma, license or certificate, and the qualifying and prior examination;

(h) the conditions on which institutions may be recognized by the Board under Section 34;

(i) the conditions of residence of students in institutions recognized by the Board and the levying of fees for such residence;

(j) the number, qualifications and emoluments of teachers engaged in institutions recognized by the Board; and

(k) the conditions of appointment of examiners and the conduct of examination.

(2) The State Government, on receiving regulations for sanction, may sanction or refuse to sanction the same or sanctions them subject to such modifications as it may think fit or return them to the Board for further consideration.

(3) All regulations shall be published in the Official Gazette.

(4) The State Government may by notification, cancel any regulation.

53. Power to make rules :-

(1) The State Government may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make rules for any of the following matters:-

(a) the time at which and the place and manner in which elections shall be held under Section 3;

(b) the conditions subject to which the Board may transfer any property under sub-section (2) of Section 3;

(c) the manner in which and the period within which vacancies shall be filled under Section 2;

(d) the allowances payable to the President and members of the Board under Section 12;

(e) the conduct of and the maintenance of correct minutes of meetings of the Board;

(f) the salary, allowances and other conditions of service of the Registrar under Section 19;

(g) the punishment, dismissal, discharge and removal of officers and servants of the Board other than the Registrar under clause (ii) of sub-section (3) of Section 19;

(h) the exercise and performance of powers and duties by the Registrar and other officers and servants of the Board under Section 20;

(i) the form of the register and the particulars to be entered therein under Section 21;

(j) the fees chargeable for the alteration of entries in the register under Section 21;

(k) the manner in which appeals against the decision of the Registrar shall be filed before and heard by the Board under Section 23 or any other section;

(l) the distribution of funds placed by the State Government at the disposal of the Board under Section 38;

(m) the form of application and fees chargeable under this Act;

(n) the furtherance of any of the objects of the Board as a teaching or examining body;

(o) the furtherance of any other objects of the Board; and

(p) any other matter which is required to be or may be prescribed.

54. Repeal of Act 7 of 1916 and Bihar Act 20 of 1949 insofar as they relate to the Homeopathic and Biochemic systems of medicine :-

The Indian Medical Degrees Act, 1916, and the Indian Medical Degrees (Bihar Amendment) Act, 1949, insofar as the said Acts relate to the Homeopathic and Biochemic Systems of Medicine, are hereby repealed.