

Orissa Homoeopathic Act, 1956

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Orissa Homoeopathic Act, 1956

An Act to regulate the teaching and practice of the Homoeopathic system of medicine In the State of Orissa Whereas it is expedient to provide for regulation, teaching and practice of the

Homoeopathic system of medicine in the State of Orissa; It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India as follows : Published vide O.A. No. 8 of 1957. For Statement of Objects and Reasons, see Orissa Gazette Ext./13-9-1956, P. 24.

CHAPTER 1
PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Orissa Homoeopathic Act, 1956.

(2) It extends to the whole of the State of Orissa.

(3) Sections 1 and 2 shall come into force at once.

The remaining provisions of this Act shall come into force in whole or in part on such date or dates as the State Government may by notification, appoint and different dates may be appointed for different portions of this Act.

2. Definitions :-

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

(a) "Board" means the Orissa State Board of Homoeopathic Medicine as constituted under Section 3 of this Act;

(b) "Homoeopathic Practitioner" means a Practitioner in Homoeopathic system of medicine;

Explanation-This expression does not include a person administering Homoeopathic Medicine for his own domestic purposes;

(c) "Homoeopathy" means the system of medicine founded by Dr. Hahnemann or the allied system of Bio-Chemistry founded by Dr. Sehussier and the expression "Homoeopathic" shall be construed accordingly;

(d) "Inspector" means an Inspector appointed by the Board under Section 32;

(e) "Listed Homoeopathic Practitioner" means a Homoeopathic practitioner registered as such under Section 21 but shall not have the privileges enjoyed by the Registered Homoeopathic Practitioner;

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

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

(h) "register" means a register of Homoeopathic practitioners

prepared and maintained under this Act;

(i) "Registered Homoeopathic Practitioner" means a Homoeopathic Practitioner registered as such under Section 21;

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

CHAPTER 2

CONSTITUTION OF BOARD

3. Constitution Of Board :-

(1) The State Government may by notification constitute a Board to be called the Orissa State Board of Homoeopathic Medicine.

1[(2) The Board shall consist of seven members including the President and shall be constituted in the following manner :

(a) a President to be nominated by the State Government;

(b) two renowned Homoeopathic Practitioners practising in the State of Orissa whose names validly continue for the time being in the register, to be nominated by the State Government;

(c) two members to be elected by the Orissa Legislative Assembly from amongst its members in the prescribed manner;

(d) the Director, Indian System of Medicine and Homoeopathy, Orissa; and

(e) one Lady Social Worker having special interest and knowledge in Indian System of Medicine and Homoeopathy :

Provided that whenever vacancies arise in the offices specified in Clause (c) due to dissolution of the Orissa Legislative Assembly, the State Government may fill up the said vacancies by nominating two persons who shall, unless sooner removed, hold office till the date on which the names of the members elected under the said clause by the Assembly after its reconstitution are published in the Gazette and the term of office of the members so elected shall be co-terminus with the term of office of the members nominated under Clause (b).]

(3) The Board shall be a body corporate and shall have perpetual succession and a common seal with powers 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 . Substituted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No. 12935/Legis./19-9-1994-O. A. No. 16 of 1994.

4. Omitted :-

1[* * *]

1. Omitted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No. 12935-Legis./19-9-1994-O. A. No. 16 of 1994.

5. Term Of Office Of Members :-

Save as otherwise provided in this Act, the term of office of nominated and elected members of the 1[* * *] Board shall be for a period of three years from the date of publication of their names in the 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.

1. Omitted vide Orissa Gazette Ext. No.1113/19-9-1994-Notification No. 12935-Legis./19-9-1994-O. A. No. 16 of 1994.

6. Publication Of Names Of President, Secretary And Members :-

The names of the President, Secretary as hereinafter provided and the members nominated or elected under Section 3 1[* * *] shall be notified in the Gazette.

1. Omitted vide Orissa Gazette Ext. No.1113/19-9-1994-Notification No. 12935-Legis./19-9-1994-O. A. No. 16 of 1994.

7. Resignation Of Members :-

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

8. Removal Of Members From Office :-

(1) Except in the case of the President, the Board may remove from office any other 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 to act ; 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 Sub-section (1) may, within thirty days from the date of his removal, appeal to the State Government and the order of the State Government on such appeal, shall be final.

9. Filling Of Casual Vacancies :-

If 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 unexpired period of 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 may be left unfilled until the next general election.

10. Eligibility Of Members For Re-Election :-

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

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 disqualification.

12. Salary To The Secretary And Allowances To Other Members :-

(1) There shall be a Secretary to the Board who shall be appointed by the State Government. He shall be paid out of the Homoeopathic Fund, hereinafter constituted, such salary and allowances as the State Government may fix in this behalf. Other conditions of his service shall be as may be prescribed.

(2) The salary, allowances, pension and provident fund to the extent required by the rules for the time being in force shall be paid out of the Consolidated Fund of the State in case the Secretary is a Government servant.

(3) The President, Secretary and the members shall be paid such travelling allowance as may be prescribed.

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

CHAPTER 3

CONDUCT OF BUSINESS

13. Meeting Of The Board :-

(1) The Board shall have an office at the headquarters of the State Government and shall meet at such time and place, and every meeting of the Board shall be summoned in such a manner, as may be provided by regulations :

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

1[(2) No business shall be transacted at any meeting of the Board unless at least three 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 . Substituted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No. 12935-Legis./19-9-1994-O. A. No. 16 of 1994.

14. President 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 Secretary of the Board to the State Government or to such authority as the State Government may direct.

17. Validity Of Proceedings :-

(1) No disqualification of, or defect in the election or nomination of any person acting as 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

18. Officers And Employees Of The Board :-

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

Provided that the number and designation of such officers and employees, 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 employee shall be subject to rules made by the State Government in this behalf.

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

(3) The Secretary or any other officer or employee appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

(4) All officers and employees of the Board shall be under the direct control and supervision of the Secretary.

19. Powers And Duties Of Secretary And Other Officers And Employees Of The Board :-

The Secretary and the other officers and employees 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 order of the Board.

20. Secretary As Registrar Ex Officio :-

(1) The Secretary shall be the Registrar, ex officio and be referred to as such in this Chapter and 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 Homoeopathic Practitioners and listed Homoeopathic Practitioner and, from time to time, revise the same.

(2) The registers shall be kept in such form as may be prescribed and shall contain the name, address and qualifications of every registered Homoeopathic Practitioner and listed Homoeopathic 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.

21. Registration And Fees For Registered And Listed Homoeopathic Practitioners :-

(1) There shall be two categories of Homoeopathic Practitioners, (i)

registered Homoeopathic Practitioners, and (ii) listed Homoeopathic Practitioners.

(2) A registered Homeopathic Practitioner shall be-

(a) one who passes a qualifying examination under Section 30 or Section 31;

(b) one who is a Homoeopathic Practitioner holding a degree of a foreign country which entitles him to practise Homoeopathy subject to the condition that the institution is approved as suitable for the purpose by the Board;

(c) one who is a Homoeopathic Practitioner who has successfully gone through at least a four-year-course in any Homoeopathic Institution recognised by the State in which the institution is situated and holding a diploma or a certificate from that institution, subject to the condition that the standard of qualification is not lower than the standard that would be required for the registration by the Orissa State Board of Homoeopathic Medicine;

(d) one who proves that he has been practising regularly and efficiently as a whole-time practitioner of the Homoeopathic system of medicine for a period of not less than ten years prior to the date of the commencement of this Act, the proof of such regular and efficient practice being tested by the Board in the manner it deems fit; or

(e) one who, in the opinion of the Board, is of sufficient reputation and ability and is well-known for his skill in his profession and has been practising the Homoeopathic system of medicine for a period of not less than ten years prior to the commencement of this Act 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 Gazette.

(3) A listed Homoeopathic Practitioner shall be-

(a) one who has been practising Homoeopathic system of medicine regularly for at least three years at the time when the first Board is constituted ; provided that the Board is satisfied that he has been practising as such ; or

(b) one who although does not come under Clause (a) passes an examination, the standard of which shall be formulated by the Board.

1[(3-a) No person shall, unless he has attained the age of majority by the date of application referred to in Sub-section (4), be enrolled either as a registered Homoeopathic Practitioner or as a listed Homoeopathic Practitioner.]

2[(4) (a) Notwithstanding anything contained in this Act, on and

after the commencement of the Orissa Homoeopathic (Amendment) Act, 1994 no person save as provided in Clause (b), shall be registered-

(i) as a listed Homoeopathic Practitioner, or

(ii) as a registered Homoeopathic Practitioner, unless he possesses any medical qualification included in the Second or Third Schedule to the Homoeopathic Central Council Act, 1973.

(b) Any person who, on the date of commencement of the Orissa Homoeopathic (Amendment) Act, 1994, validly continues as a listed Homoeopathic Practitioner or registered Homoeopathic Practitioner shall, if he intends to so continue, make an application in the prescribed form and manner to the Registrar for fresh registration as such.

(c) A person, other than a listed Homoeopathic Practitioner or registered Homoeopathic Practitioner, who possesses any medical qualification referred to in Sub-clause (ii) of Clause (a) and intends to practise Homoeopathy, shall make an application in the prescribed form and manner to the Registrar for registration as a Registered Homoeopathic Practitioner.

(d) The Registrar shall, if he is satisfied on receipt of an application-

(i) under Clause (b), that the person validly continues as a listed or registered Homoeopathic Practitioner as provided in that clause, cause his name to be entered in the register as a listed Homoeopathic Practitioner or registered Homoeopathic Practitioner, as the case may be ; or

(ii) under Clause (c), that the person is qualified to be registered as a registered Homoeopathic Practitioner, cause his name to be entered in the register as a Registered Homoeopathic Practitioner, subject to payment of such fees in such manner as may be prescribed.

(e) Every person, whose name is so registered under Clause (d), shall be provided with a licence in the prescribed form to practise Homoeopathy in the State which shall remain valid for the entire lifetime of the person unless his name is removed from the register under any of the provisions of this Act.

(f) Notwithstanding anything contained in this Act, if any person, who validly continues as a listed Homoeopathic Practitioner or registered Homoeopathic Practitioner on the date of commencement of the Orissa Homoeopathic (Amendment) Act, 1994, falls, without reasonable cause, to obtain a fresh licence in accordance with the provisions of this section before the expiry of-

(i) the period for which he paid his annual fees or, as the case may be, the last annual renewal fees ; or
(ii) a period of six months from the date of such commencement whichever is later, his name shall be deemed to have been removed from the register with effect from such later date.]

(5) The names of persons whose names have been so entered in the registers and the names of those whose applications have been rejected shall be published by the Registrar in the Gazette.

1. Inserted vide O.A. No. 36 of 1962.

2 . Substituted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No. 12935-Legis./19.9-1994-O.A. No. 16 of 1994.

21A. Provisional Registration :-

1[Notwithstanding anything contained in Section 21, where the courses of study in the Homoeopathic system of medicine to be undergone for obtaining a Degree or Diploma under the Act includes a period of training after a person has passed the qualifying examination and before conferment of such qualification on him, any such person shall, on a written application made to the Registrar and on payment of rupees ten and on submission of the documents as will be required by the Registrar, be entitled to have his name entered provisionally in the register of registered Homoeopathic Practitioners in order to enable him to practise Homoeopathic system of medicine under supervision of qualified persons authorised to impart the training in an approved institution during the aforesaid period of training.]

1. Inserted vide Orissa Gazette Ext. No. 894/23-6-1987-O. A. No. 14 of 1987.

22. Appeal To The Board From The Decision Of The 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 (5) of Section 21, 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.

23. 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 practitioners as are dead or write to any registered practitioner at the address which is entered in the register to inquire Whether he has ceased to practise or has changed his residence, and if no reply is received to the said letter within three months, the Registrar may issue a reminder by registered post and, in case no reply is received to the 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.

24. Report Of Deaths 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 the 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.

25. Prohibition Of Entry In Or Removal From The Register :-

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

Homoeopathic Practitioner to be heard in his defence either personally or through an authorised 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 reentered, 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.

26. Procedure To Inquiries :-

For the purpose of any inquiry held under Clause (b) of Sub-section (1) of Section 25, the Board or Committee, as the case may be, shall exercise the powers of a Commissioner appointed under the Public Servants (inquiries) Act, 1850 (XXXVII of 1850), and the provisions of Sections 5, 8 to 10, 14 to 16, 19 and 20 of the said Act shall, so far as may be, apply to every such inquiry.

27. 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 Gazette and in such other manner as the Board may direct, a correct list of names for the time being entered in the register and 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 titles 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 the date fixed as aforesaid, a 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 person 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 either a registered Homoeopathic Practitioner

or a listed Homoeopathic Practitioner, as the case may be, and that any person not so entered is not a registered Homeopathic Practitioner or a listed Homoeopathic 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.

28. Enquiry Before Registration :-

The Registrar before making an entry in the registers under Sub-section (4) of Section 21 of the names of registered Homoeopathic Practitioner and listed Homoeopathic Practitioner, shall make an enquiry in such manner as may be laid down by regulation under Section 53.

29. 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 recognised 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 Orissa, 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 Homoeopathic 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 Homoeopathic 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 Homoeopathic Practitioner;

(d) a registered Homoeopathic Practitioner shall be entitled to-

(i) sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner;

(ii) sign or authenticate a medical or physical fitness certificate of

such description as may be prescribed;

(iii) give evidence at any inquest or in any Court of law as an expert under Section 45 of the Indian Evidence Act, 1872 (Act I of 1872), or on any matter relating to the Homoeopathic system of medicine.

30. Board To Hold Examination To Test Listed Homoeopathic Practitioners :-

(1) The Board shall at any time, within a period of three years after the date of publication of the names of listed Homoeopathic Practitioners practising in the State of Orissa the Homoeopathic system of medicine arrange, after giving such previous notice as it thinks fit to hold examinations of all such listed Homoeopathic Practitioners who do not possess the registerable qualifications specified in Sub-section (2) of Section 21.

(2) The Board shall by regulations, among others, lay down 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 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.

31. Qualifying Examination :-

(1) The Board shall, by regulations, lay down the qualifications required for admission to a Course of training in the Homoeopathic system of medicine, the course of such training and the qualifying examinations and may establish and finance Homoeopathic dispensaries, hospitals, educational institutions in Homoeopathy 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 Homoeopathic 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 institution.

32. 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 any 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.

33. 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.

34. 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 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 Homoeopathic 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 recognised by the Board;

(2) to demand and receive from students such 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 recognised by the Board and to make arrangements for promoting the health and general welfare of students receiving instruction in such institution;

(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 Homoeopathic 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 representation as it may deem fit;

(6) to establish or aid research institutions and to arrange for post graduate study in the science of Homoeopathy and to encourage scientific manufacture of Homoeopathic medicines in the State;

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

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

(9) to negotiate with any Homoeopathic medical authority outside the State, whether 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 Homoeopathic journals and to circulate copies thereof among registered Homoeopathic 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 this Act.

35. Omitted :-

[* * *]

CHAPTER 5

FINANCES OF THE BOARD

36. Homoeopathic Fund :-

There shall be established a fund to be called the Homoeopathic 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 Homoeopathic Practitioners 1[* * *] or on account of admission to the examinations held by the Board and licensing of firms for sale of Homoeopathic medicines and drugs and any other fee 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.

1. Omitted vide Orissa Gazette Ext. No.1113/19-9-1994 - Notification No, 12935-Legis./19-9-1994-O.A. No. 16 of 1994.

37. 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 Homoeopathic 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.

38. Annual Estimate Of Income And Expenditure :-

(1) The President 1 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 due fulfilment 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.

39. 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 resubmit 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.

40. Restrictions On Expenditure Not Included In The Budgeted :-

(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.

41. Objects To Which Homoeopathic Fund May Be Applied :-

The Homoeopathic Fund shall be applicable to the following objects and in the following order :

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

(b) to the payment of the salaries and allowances of the Secretary, 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 Secretary, 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 Homoeopathic 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 favour of which not less than two-thirds of the members present at such meeting shall have voted, to be an object to which the Homoeopathic Fund may be applicable; and
- (h) to the payment of any other expense incurred by the Board in carrying put the provisions of this Act.

42. Audit :-

The accounts of the Board shall be subject to audit under the Orissa Local Fund Audit Act, 1948 (Orissa Act V1948) 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.

CHAPTER 6 **MISCELLANEOUS**

43. Reservation Of Certain Appointments To Registered Homoeopathic Practitioners Who Have Qualified Themselves From Institutions Established Or Recognised By The Board :-

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

Provided that registered Homoeopathic 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 appointment.

44. Bar To Suits And Other Legal Proceedings :-

(1) No suit or other legal proceedings 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 proceedings shall be maintainable against the Board or any member or any officer or employee of the Board or any person acting under the direction of the Board or of the President or of any officer or employee 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.

45. Mode Of Proof Of Boards Records :-

A copy of any proceedings, 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 authorised by the Board in this behalf, be received as prima facie evidence of the existence of such proceedings, 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 proceedings, receipt, application, plan, notice, order or entry would, if produced, have been admissible to prove such matters.

46. Restriction On The Summoning Of Boards Employees To Produce Documents :-

No member or officer or employee of the Board shall in any legal proceedings 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.

47. Cognizance Of Offences :-

(1) No Court below the rank of a Magistrate of the Second Class shall take cognizance of 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.

48. Conferring, Granting Or Issuing Of Diploma, Licence, Etc., By Authorised Person :-

(1) No person or association other than the Board, shall confer, grant or issue, or hold himself out as entitled to confer, grant or issue any degree, diploma, licence which is identical with, or is a colourable imitation of any degree, diploma or licence, granted by the Board.

(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, every member of such association who knowingly or wilfully authorises or permits the contravention, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

49. False Assumption Of Degree, Diploma Or Certificate To Be An Offence :-

Whoever wilfully or falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by the Board under this Act or that he is a registered or listed Homoeopathic Practitioner shall, on conviction, be punishable with fine, which may extend to two hundred rupees for the first offence, and with fine which may extend to five hundred rupees for every subsequent offence.

50. Bar To Practise Homoeopathy By Unqualified Persons :-

After the publication of the names of Homoeopathic Practitioners under Section 21 of the Act and after such time as the State Government shall, by notification in the Official Gazette, announce, no person other than a registered or listed Homoeopathic Practitioner holding a licence to practise as hereinbefore provided, shall practise or hold himself out whether directly or by implication as practising or being prepared to practise the Homoeopathic system of medicine :

Provided that the State Government may, by notification in the Official Gazette, direct that the provisions of this section shall not apply in a specified area.

51. Penalty For Practise Of Homoeopathy By Unauthorised Persons :-

Any person who acts in contravention of Section 50 shall, on

conviction of such offence, be punishable with fine which may extend to five hundred rupees.

52. 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 they consider 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 powers and duties of the Board to be exercised and performed 1[during the period of such dissolution by such person as they may think fit to appoint and shall take steps to bring into existence a new Board without delay.

1. Substituted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No.12935-Legis./19-9-1994-O.A. No. 16 of 1994.

52A. Power To Appoint A Person To Exercise Powers Of The Board Or The President :-

1[If, at any time the Board ceases to function by reason of any decision of any Court or otherwise, the State Government may cease all or any of the powers and duties of the Board or Its President to be exercised and performed by a person appointed in that behalf till the date of assumption of office by the new Board.]

1. Inserted vide O. A. No. 4 of 1974.

53. Power To Make Regulations :-

(1) The Board may, with the previous sanction of the State Government, make regulations, not inconsistent with his 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 employees of the Board other than those of the Secretary;

(c) the procedure to be followed by the Registrar in making an inquiry under the provisions of Sections 21 and 28;

(d) the qualifications required and the fee to be paid for admission into the test examination held under Section 30 and the subjects in

which examination shall be held and the requisite standard or proficiency to attain success at such examination;

(e) the courses of study for training and qualifying examination held under Section 31, the language in which the examination shall be conducted and instruction shall be given;

(f) the admission of students to the bodies or institution recognised under Section 33;

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

(h) the conditions on which institutions may be recognised by the Board under Section 33;

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

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

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

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

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

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

54. Power To Make Rules :-

(1) The State Government may, after previous publication, make rules to carry out any or all 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 1[the election] shall be held under Section 3;

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

(c) the manner in which and the period within which vacancies shall be filled under Section 9;

(d) the travelling allowances payable to the President, Secretary and members of the Board under Section 12 ; and conditions of service of the Secretary under the said section;

- (e) the conduct of, and the maintenance of correct minutes of meetings of the Board;
- (f) the punishment, dismissal, discharge and removal of officers and employees of the Board other than the Secretary under Section 18;
- (g) the exercise and performance of powers and duties by the Secretary and other officers and employees of the Board under Section 19;
- (h) the form of the register and the particulars to be entered therein under Section 20 ; and the nature of the certificate under Section 29;
- (i) the fees chargeable for the alteration of entries in the register under Section 20;
- (j) the manner in which appeals against the decision of the Registrar shall be filed before and heard by the Board under Section 22 or any other section;
- (k) the distribution of funds placed by the State Government at the disposal of the Board under Section 37;
- (l) the form of application and fees chargeable under this Act;
- (m) the furtherance of any of the objects of the Board as a teaching or examining body;
- (n) the furtherance of any other objects of the Board ; and
- (o) any other matter which is required to be or may be prescribed.

1. Substituted vide Orissa Gazette Ext. No. 1113/19-9-1994-Notification No. 12935-Legis./19-9-1994-O.A. No. 16 of 1994.

55. Repeal :-

The Indian Medical Degrees Act, 1916 (Act VII of 1916) in so far as the said Act relates to the Homoeopathic and Biochemic systems of medicine, is hereby repealed.

56. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasions may require, by order, do anything which appears to them necessary, for the purpose of removing the difficulty.

Validation-Notwithstanding anything contained in the principal Act, any person authorised on or after the 25th October, 1988 under Section 52 of the said Act as it stood prior to the commencement of this Act to exercise the powers and perform the duties of the Board beyond the statutory limit of six months as provided in that section

shall, for all intents and purposes, be deemed to have been validly authorised under that section and any action taken or things done by any such person, under the belief or purported belief that he was validly authorised for that purpose, shall be deemed to have been validly taken or done, as if Section 52 of the principal Act as amended by this Act were in force at all material points of time when any such authorisation was made, and accordingly no suit or other legal proceeding shall be instituted, maintained or continued in any Court or tribunal or before other authority merely on the ground that any such authorisation was not in accordance with Section 52 of the principal Act.