

(1997) 04 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 12868 of 1996

Dr. P.S. Rawat

APPELLANT

Vs

Chandigarh Administration and
Others

RESPONDENT

Date of Decision: April 30, 1997

Acts Referred:

- Punjab Homoeopathic Practitioners Act, 1965 - Section 14(1)

Citation: (1997) 116 PLR 762

Hon'ble Judges: N.C. Jain, J; B. Rai, J

Bench: Division Bench

Advocate: Anand Chhibbar, for the Appellant; Ashok Aggarwal and Davinder Singh, for Respondent Nos. 1 and 2 and Ashok Sharma, for the Respondent

Final Decision: Allowed

Judgement

N.C. Jain, J.

The petitioner by way of this petition has challenged the appointment of respondent No. 3 Dr. Rajeshwar Singh as Registrar of the Council of Homoeopathic System of Medicine, Union Territory, Chandigarh, primarily on the ground that the Chandigarh Administration could not appoint respondent No. 3 as the Registrar of the Council of Homoeopathic System of Medicine. With reference to Section 14 of the Punjab Homoeopathic Practitioners Act, 1965 (hereinafter to be referred to as the "Act") it has been vehemently argued that only Council with the previous approval of the State Government can appoint the Registrar and that such a power to appoint the Registrar does not vest with the Administrator of the Union Territory, Chandigarh.

2. Before examining the argument in depth, it is necessary to have a look at the Scheme of the Act and Section 14 of the Act. Under the Act, the State Government has been empowered to established o by notification the Council of Homoeopathic System of Medicines for the purpose of carrying out the provisions of the Act. The

Registrar is to be appointed u/s 14 of the Act who has been defined in Section 2(11) of the Act. The Registrar in the afore-mentioned provision means the Registrar appointed u/s 14 of the Act. Section 14 of the Act reads as under:-

"14 Registrar. - (1) The Council shall, with the previous approval of the State Government, appoint a Registrar who shall receive such salary and allowances and be subject to such conditions of service as may be prescribed.

(2) The Chairman may, from time to time, grant leave to the Registrar and the Council may appoint a person to act in his place.

(3) Any person duly appointed to act as a Registrar shall be deemed to be the Registrar for all the purposes of this Act.

(4) Any order of the Council appointing, punishing or removing the Registrar from office shall not be passed without the previous approval of the State Government.

(5) The Council may appoint such other officer 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 and their salaries and allowances shall be subject to the previous approval of the State Government.

(6) The Registrar and 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.

(7) The Registrar shall be the Secretary of the Council and shall act as Executive Officer of the Council."

3. The argument of the counsel for the petitioner is well merited. Section 14(1) of the Act as has been reproduced above clearly envisaged that the Registrar can be appointed by the Council with the prior approval of the State Government. The use of the word "shall" after the two words "The Council" does not leave any manner of doubt that it is the Council which enjoys power to make appointment of Registrar and the only rider is that previous approval of the State Government has to be obtained before making such a appointment. In other words, the mandate of the Section is that the Council would appoint the Registrar after obtaining prior approval of the State Government. It can be spelt from the reading of the provisions of Section 14 of the Act that the Administrator, Union Territory, Chandigarh can not appoint Registrar of the Council.

4. For the reasons recorded above, the order of the appointment of respondent No. 3 as Registrar vide Annexure P/I is hereby quashed. Consequently, the writ petition is allowed with no order as to costs.