



IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Writ Petition (S/B) No. 111 of 2024

Shashi Bala & Others ... Petitioners

Versus

State of Uttarakhand & Others ... Respondents

Mr. M.C. Pant, Advocate, for the petitioners.
Mr. S.S. Chaudhary, Standing Counsel, for the State of Uttarakhand.
Mr. Manoj Kumar, Central Govt. Standing Counsel, for the Union of India.
Ms. Anjali Bhargava, Advocate, for the UGC.
Mr. Shivanand Bhatt, Advocate, for Bhartiya Chikitsa Parishad, Uttarakhand.
Mr. Ramji Srivastava, Advocate, for NCISM.
Mr. Rajendra Arya, Advocate, i/b Mr. Neeraj Garg, Advocate for UPNL.
Dheeraj Joshi, Advocate, i/b Mr. Bhagwat Mehra, Advocate for the caveator.
Mr. Jitendra Chaudhary, Advocate, for the interveners.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.
Hon'ble Pankaj Purohit, J.

(Per: Hon'ble Manoj Kumar Tiwari, J.)

According to petitioners, they were given contractual appointment through outsourcing agency as Yoga Trainer in the Department of Ayurvedic and Unani Services between 2018 to 2020. All of them possess MA (Yoga) qualification, while some of them also possess PG Diploma, as stated in para 6 of the writ petition. Director, Ayurvedic and Unani Services, Uttarakhand issued an advertisement on 15.3.2024, inviting applications for appointment against 16 vacancies on the post of Ayurvedic Yog evam Prakritik Chikitsa Sahayak.



As per Clause 3 of the advertisement, candidates possessing following qualifications alone would be eligible for appointment:

- (a) Intermediate from Uttarakhand Education Board/U.P. Secondary Education Board or any qualification declared as equivalent thereto;
- (b) One year diploma in Ayurvedic Yog evam Prakritik Chikitsa Sahayak, recognized by Bhartiya Chikitsa Parishad, Uttarakhand and registered with Bhartiya Chikitsa Parishad, Uttarakhand.

2. Petitioners do not possess the qualification mentioned in Clause 3(b) of the advertisement. In other words, they do not possess one year diploma in Ayurvedic Yog evam Prakritik Chikitsa Sahayak course nor the qualification possessed by them is recognized by Bhartiya Chikitsa Parishad, Uttarakhand. Petitioners are also not registered with Bhartiya Chikitsa Parishad, Uttarakhand.

3. The essential qualifications mentioned in the advertisement dated 15.3.2024 are as per Uttarakhand Ayurvedic Yog evam Prakritik Chikitsa Sahayak Niyamavali, 2021. Rule 8(b) of the said rules makes it mandatory for a candidate to possess one year diploma in Ayurvedic Yog evam Prakritik Chikitsa Sahayak, which should be recognized by Bhartiya Chikitsa Parishad,



Uttarakhand. It also provides that one should be registered with Bhartiya Chikitsa Parishad, Uttarakhand. Since petitioners do not meet the requirement of Rule 8(b) of the aforesaid rules, therefore, they have filed this writ petition seeking the following reliefs:

I. Issue a writ order or direction in the nature of certiorarified mandamus to declare the rule 8(b) of the Uttarakhand Ayurvedic Yog & Prakartik Chiktsa Sahayak Sewa Niyamavali 2021 (Uttarakhand Yoga and Naturopathy Assistant Service Rules 2021) and the condition of having one year diploma recognized by Bhartiya Chiktsa Parishad Uttarakhand in Ayurvedic Yog & Prakartik Chiktsa Sahayak for registration as Yoga & Naturopathy Assistant in Uttarakhand (Contained as Annexure No. 1 and 2) as ultra vires, illegal, arbitrary, unjust and against the provision of law after calling the records or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

II. Issue a writ, rule, order or direction in nature of mandamus directing the respondents to grant registration certificate on the basis of the diploma/degree recognized by the UGC as applicable prior to the notification of Rules of 2021 after calling the entire record from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

III. Issue a writ, rule, order or direction in nature of mandamus to declare the appointment of the Petitioners on their respective post and position is regular and substantive for all consequential benefit and further to declare the UPNAL AND PRD is mere placement agency and the real and actual employer is the AYUSH department and allow benefits as well as equal pay for equal work at par to the regular employee of the department to the Petitioner with all consequential benefit or in alternate to direct the respondents to prepare scheme for regular



absorption and appointment of the Petitioner on the posts of Yog Instructors/ Yoga and Naturopathy Assistant before making any fresh appointment pursuant to the impugned advertisement and to allow all the benefits to the petitioners keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

IV. Issue appropriate writ rule or direction to provide damages and compensation to the petitioner in tune of such amount which the court deem fit and proper in the circumstances of the case and recover the same from the erring officer who are instrumental for such type of tortuous act."

4. Learned Counsel for the petitioners submits that MA (Yoga) degree possessed by the petitioners is from universities recognized by University Grants Commission, therefore they cannot be treated as ineligible for appointment and the condition mentioned in the rules that diploma must be recognized by Bhartiya Chikitsa Parishad, Uttarakhand is arbitrary and unsustainable. It is further contended on behalf of petitioners that they have been serving as Yoga Trainer in wellness centres established by the State Government since last several years, therefore they cannot be excluded from the zone of consideration for regular appointment as Ayurvedic Yog evam Prakritik Chikitsa Sahayak. It is further contended that petitioners should be declared to be regularly appointed against available vacancies on the post of Ayurvedic Yog evam Prakritik Chikitsa Sahayak, as petitioners are employed under a State Department and the



outsourcing agencies (UPNL)/PRD are merely placement agencies.

5. Mr. Ramji Srivastava, learned Counsel appearing for National Commission for Indian System of Medicines, submits that Bhartiya Chikitsa Parishad, Uttarakhand is the statutory body established under the U.P. Indian Medicine Act, 1939. He submits that Bhartiya Chikitsa Parishad, Uttarakhand is the regulatory body in respect of different Ayurvedic and Naturopathy including Yoga courses. He thus submits that the State Government was justified in putting a condition in the service rules that candidates, who possess qualification recognized by Bhartiya Chikitsa Parishad, Uttarakhand, alone would be eligible for appointment as Ayurvedic Yog evam Prakritik Chikitsa Sahayak.

6. Mr. Shivanand Bhatt, learned Counsel appearing for Bhartiya Chikitsa Parishad, Uttarakhand, submits that Government of Uttarakhand issued certain directions to Bhartiya Chikitsa Parishad, Uttarakhand vide letter dated 30.11.2021. He submits that as per the directions issued by the State Government, candidates possessing one year diploma in Ayurvedic Yog evam Prakritik Chikitsa Sahayak alone are eligible to be registered; for starting courses in Ayurvedic Yog evam Prakritik Chikitsa Sahayak, permission from Ministry of Ayush, Government of India shall be necessary. He submits that the institutions/universities, which awarded (MA



(Yoga) degree to the petitioners, were not given permission by Ministry of Ayush, Government of India for starting the course. He submits that neither the concerned universities nor the courses run by such universities are recognized by Bhartiya Chikitsa Parishad, Uttarakhand. He further submits that after appointment as Ayurvedic Yog evam Prakritik Chikitsa Sahayak, one is required to discharge clinical duties, for which practical training is needed, however petitioners did not receive any practical training while pursuing MA (Yoga) course. He submits that MA (Yoga) qualification may prepare a person to impart instructions in Yoga, however it does not equip a person to discharge duties in hospitals. He further submits that Yoga, although is a component of the curriculum, which is required to be studied for the post in question, however one should be trained in naturopathy and other alternative systems of medicine for appointment as Ayurvedic Yog evam Prakritik Chikitsa Sahayak.

7. Learned State Counsel submits that petitioners' claim for regularization is unfounded; for regularization, one should be serving against a sanctioned post ever since 2008, while petitioners were engaged on contract between 2018 to 2020. He submits that there are many other conditions in the regularization rules, which have to be met before petitioners can be considered for regularization. He further submits that the post in question is a clinical post, while



petitioners are not trained for discharging clinical duties. He further submits that as employer, State Government has every right to prescribe the educational qualifications required for appointment to a post and the challenge to the educational qualifications, as prescribed in Rule 8(b) of the service rules, is without any basis. He submits that Rule 8(b) cannot be challenged merely because petitioners are not able to meet the conditions regarding educational qualification.

8. Mr. M.C. Pant, however, contends that petitioners served during lockdown, which was imposed in view of Covid-19 pandemic, and they were required to discharge clinical duties, therefore it cannot now be contended that the petitioners are not trained for clinical duties.

9. It is not in dispute that the service rules applicable for the post of Ayurvedic Yog evam Prakritik Chikitsa Sahayak were framed under proviso to Article 309 of Constitution of India, thus they are statutory in nature. Law is well settled that a statute can be challenged primarily on two grounds, (i) lack of legislative competence and (ii) violation of fundamental rights. Additional ground for challenging a statute would be that it contravenes some other provision of the Constitution.

10. State Government has plenary powers of framing service rules under proviso to Article 309 of the Constitution in respect of State



services, therefore the first ground of challenge is not available to petitioners. Learned Counsel for the petitioners could not demonstrate that Rule 8(b) of the service rules violates any of the fundamental rights of petitioners nor he could show any other constitutional provision, which can be said to be contravened by Rule 8(b) of the service rules.

11. Rule 8(b) of the service rules cannot be said to be arbitrary or discriminatory, as it makes classification between persons who have obtained diploma from an institution recognized by regulatory body vis-à-vis others, who do not possess qualification from an institution recognized by the regulatory body.

12. Classification based on educational qualification is valid. In respect of professional courses, regulatory bodies are put in place, which regulate various courses on the subject, including the curriculum of such courses and also maintain standard of education. Every regulatory body is conferred the power to grant recognition to the courses run by educational institutions and a course of study or an institution, which is not recognized by the regulatory body concerned, is not valid for appointment.

13. Bhartiya Chikitsa Parishad, Uttarakhand is the nodal agency for regulating courses in alternate system of medicine, therefore a person, who has obtained a



qualification in related subject, which is not recognized by Bhartiya Chikitsa Parishad, Uttarakhand, is not eligible to be registered with Bhartiya Chikitsa Parishad.

14. As employer, State Government has taken a decision that persons, who possess a qualification, which is recognized by Bhartiya Chikitsa Parishad, alone would be eligible for appointment to the post in question. Merely because petitioners do not possess a qualification recognized by Bhartiya Chikitsa Parishad would not be a valid ground for challenging Rule 8(b) of the service rules. Anyone who aspires to serve under the State must possess the essential qualifications prescribed by the State Government for appointment to a post. Petitioners should have pursued diploma course in related subject from a recognized institution, but they chose to pursue MA (Yoga) course, which is not recognized by Bhartiya Chikitsa Parishad, Uttarakhand. Merely because the universities, which awarded MA (Yoga) degree to petitioners, are recognized by University Grants Commission will not entitle petitioners to claim appointment as Ayurvedic Yog evam Prakritik Chikitsa Sahayak. Recognition by University Grants Commission to a university is different from recognition granted by a regulatory body to a particular course of study. In other words, when there is a regulatory body in place, then anyone, who desires to be appointed to a post in a related branch, must possess the requisite qualifications prescribed in the service



rules. State Government has treated the qualification recognized by Bhartiya Chikitsa Parishad, Uttarakhand alone to be valid, therefore anyone who wants to be appointed must possess the required qualification.

15. Thus this Court does not find any reason to declare Rule 8(b) of the service rules as ultra vires the Constitution of India. The condition mentioned in Rule 8(b) cannot be said to be arbitrary or unreasonable so as to declare it invalid. Unless petitioners possess the qualification recognized by Bhartiya Chikitsa Parishad, they cannot be registered by the said regulatory body, therefore prayer no. 2 cannot be granted. Since petitioners are not eligible as per the service rules, therefore, prayer no. 3 also cannot be granted to them.

16. For the aforesaid reasons, there is no scope for interference in the matter. Writ petition fails and is dismissed.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

20.3.2026

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