

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20704 of 2021

Uma Shankar Sharma, Son of Late Bachchu Prasad Singh, Resident of Village - Salempur, P.O. - Sikandarpur, P.S. - Sakurabad, District - Jehanabad, Bihar - 804425.

... ... Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Additional Secretary, Health Department, Government of Bihar, Patna.
3. The Director in Chief, (Health Department) (Pharmacy), Health Department, Government of Bihar, Patna.
4. The Drug Controller of Bihar, Health Department, Government of Bihar, Patna.
5. The Chairman Bihar State Pharmacy Council, B.M. Das Road, P.S. - Pirbahore, District- Patna.
6. The Superintendent of Police, Vigilance Bureau, 6, Circular Road, Patna.
7. Bindeshwar Nayak Son of Late Sukhdeb Nayak resident of Flat no. 403 Shankar Apartment East Boring Canal Road, P.O. Boring Canal Road, P.S.- S.K Puri, District - Patna.
8. The Secretary Pharmacy Council of India, NBCC Centre 3rd Floor Plot No.- 02, Community Centre Maa Anandamai Marg, Okhla Phase - I, Landmark (Near Hotel Crowne Plaza), New Delhi - 110020.

... ... Respondent/s

Appearance :

For the Petitioner/s :	Ms. Shilpi Keshri, Advocate
For the Respondent/s :	Mr. Ajay Bihari Sinha, G.A. 8
For the Respondent No.5:	Mr. Shailendra Kumar Singh, Advocate
For the Respondent No.7:	Mr. Anjani Kumar, Sr. Advocate.
For the Union of India :	Dr. K.N.Singh, A.S.G. Ms. Prakirtita Sharma, Advocate Mr. Amarjeet, Advocate Mr. Sriram Krishna, Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 09-05-2022 Shri Ajay Behari Sinha, learned G.A. 8 appearing on behalf of the State makes out a strong grievance of non-



compliance of our order dated 27th of April, 2022.

Our direction to respondent No. 5, namely, the Chairman of Bihar State Pharmacy Council (hereinafter referred to as the ‘Council’) of responding to the Government’s communications dated 25th of March, 2022, has not been complied with.

Ms. Shilpi Keshrai, learned counsel for the petitioner invites our attention to the contents of the 3rd supplementary affidavit filed on behalf of petitioner, more specifically, the annexures contained therein, from which it is evident that Shri Nabin Kumar, officiating Chairman of the said Council, has been conducting the affairs, as though the Council and its property is his personal fiefdom.

It took at least five months for the said President to relieve Shri Bindeshwar Nayak, respondent no.7, who was illegally and unauthorizedly officiating as Registrar of the Council. But, for our order dated 27th of April, 2022, he would not have done so.

Ms. Shilpi Keshrai further invites our attention to two facts; (i) registration of two FIRs dated 05.06.2010 and 20.12.2013, in reference to the mismanagement, conduct and affairs of the Council. Significantly, no progress whatsoever



stands made in this regard; (ii) the present officiating Chairman/President has been party to the issuance of registration certificates of Pharmacists on ascertaining information through telephone and not after proper verification of facts with regard to eligibility of the candidate. Attention is invited to page 17 and 18 of the 3rd supplementary affidavit.

Shri Ajay Behari Sinha further invites our attention to several communications issued by the Government asking the President as also the Council to forward the names of the Registrar. Regretfully, even this was not done.

Our attention is also invited to our order dated 24th of August, 2021 passed in CWJC No. 10967 of 2021, titled as **Uma Shankar Sharma Vs. The State of Bihar & Ors.** Pursuant thereto, the present petitioner had brought the matter to the notice of the authorities, including the Superintendent of Police, Vigilance Bureau(Bihar). Apparently, no action stands taken by the said officer.

We are of the considered view that the management and the affairs of the Council are not being conducted by the present incumbent/ officiating elected office bearer, as it ought to be done, to achieve the aims and objects of the Pharmacy Act, 1948.



We may only remind the Government as also the Council that the Act was enacted and the Council was to be established for regulating the profession and practice of pharmacy, ensuring high standards. The Council, *inter alia*, is empowered and authorised to carry out inspections of the institutions and make regulations for strengthening not only the Council but also several institutions imparting training to the pharmacists within the State. All this has not been done.

Under these circumstances, we are of the considered view that the State must exercise its power under Section 45(5) of the Pharmacy Act and have a proper inquiry conducted with regard to the management and affairs of the Council. In the attending circumstances, we would have directed the State to exercise such power, but leave it to their wisdom to do so immediately.

We are of the considered view that the enquiry must be expedited and the report submitted positively within a period of four weeks from today.

Also, we direct the Director General of Police, Bihar to ensure that investigation with respect to FIR(s), namely, Pirbahor P.S. Case No. 166 of 2010 dated 05.06.2010 (Page 12) and Vigilance Case No. 76 of 2012 dated 20.12.2012 (Page No.



19 of the supplementary affidavit) is completed, if not already so done, and report submitted in accordance with law at the earliest. However, this must positively be done within a period of four weeks from today. We clarify that pendency of any proceedings, save and expect, for any direction issued by Hon'ble the Supreme Court of India, shall not come in the way of early completion of such inquiry and investigation.

We are also of the considered view that the Superintendent of Police, Vigilance Bureau, Bihar must also complete the investigation based on the information furnished by the petitioner in terms of directions issued in CWJC No. 10967 of 2021, titled as **Uma Shankar Sharma Vs. The State of Bihar & Ors.**

Till such time the inquiry is complete, we direct that the affairs of the Bihar State Pharmacy Council shall be conducted only by such of those members, who stand nominated or are officiating in their capacity as *ex officio* members, stipulated under the Act.

Shri Shailendra Kumar Singh, learned counsel appearing on behalf of the respondent No. 5, states that Shri Nabin Kuamr, President, Bihar State Pharmacy Council shall fully co-operate and forthwith hand over the charge of the



affairs of the Council to the Officer-in-Charge of the Drugs Control Organisation of the State under the Drugs and Cosmetics Act, 1940, who is member *ex officio* by virtue of sub-section (dd) of Section 19 of the Pharmacy Act, 1948.

We clarify that if Nabin Kumar or anyone of the elected members obstruct the course of inquiry and/or investigation, we would not refrain from initiating proceedings of contempt against Nabin Kumar. In fact, they all volunteer to fully co-operate in the inquiry.

Ms. Shilpi Keshari invites our attention to communication dated 21.10.2010, Annexure-25 Page 8 of the 3rd Supplementary Affidavit, evidencing the fact that the some of the record of the Bihar Pharmacy Council stands taken away by the then officiating Registrar.

It is under these circumstances, we are constrained to pass the aforesaid order.

We further direct the State to ensure that elections to the Council under the Act and the Rules framed thereunder get conducted at the earliest.

Since the Council has failed to recommend the name of the Registrar, we direct the State Government to forthwith appoint anyone of the *ex officio* members as Registrar



of the Council by way of an interim arrangement

List this case on 23.06.2022 before which date, report of compliance be filed by the respondent No. 2 namely, the Additional Secretary, Health Department, Government of Bihar, Patna; the Director General of Police, Bihar and the Senior Superintendent of Police, Vigilance Bureau, Patna.

The order stands noted down by all the learned counsel, who undertake to communicate the same to their respective clients.

The court-master shall transmit the copy of the order electronically to the learned counsel.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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