

O R D E R

The petitioner, who is an Ayurvedic Doctor, has approached this Court by way of public interest litigation stating that elections to the Central Council for Indian Medicines ['C.C.I.M.', for short] have not been held for a considerable time and C.C.I.M. is unable to discharge its functions in accordance with law. Thus, he has prayed that

Union of India be directed to hold elections to C.C.I.M. and to constitute the same in accordance with law; fill up the post of any member who has completed the tenure of five years; and lastly, strike down or quash part of Section 7 of the Indian Medicine Central Council Act, 1970 which reads as "or until his successor shall have been duly elected or nominated, whichever is longer", being violative of Articles 14 and 16 of the Constitution of India.

Another writ petition, being Writ Petition (C) No.249 of 2011, has also been filed before this Court where the petitioner, who is a Siddha Doctor, has made similar prayers.

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However, in addition, he has prayed that the Central Government should be directed to nominate such number of persons in respect of the members who have already completed five years as members of C.C.I.M.

However, Union of India has filed reply only in Writ Petition (C) No.33 of 2009.

When this matter came up for hearing before us on 30th July, 2010, this Court passed the following Order :

"Learned counsel appearing on behalf of Central Medical Council as well as Union of India states that the Central Government will hold the elections within six months from today in terms of the judgment dated 1st June, 2010, in the case of Rajasthan Pradesh V.S. Sardarshahar and anr. vs. Union of India & Ors., reported in JT 2010 (6) SC 306. The Central Government will file a status report in terms of the above order.

The writ petition shall stand over for six months."

In response thereto, learned Solicitor General had sought time to seek instructions from the concerned Authorities in the Union of India specifying as to when and how the elections to C.C.I.M., which is a statutory obligation cast upon the Union of India, shall be held. Vide our Order dated 25th April, 2011, we had directed the Central Government to file an affidavit indicating the outer limit by which time the elections will be held in all the States. On 30th April, 2011, Union of India has filed an affidavit in response thereto where they have stated that they will hold elections to C.C.I.M. in different States but requested that they be provided some time to complete the exercise of constituting C.C.I.M. in accordance with the provisions of

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the Act. In the meanwhile, another application, being I.A. No.5, has also been filed with a prayer that this Court should issue a direction that no court in India should entertain any petition raising dispute relating to the

elections of C.C.I.M. and that will enable the Union of India to complete elections at the earliest.

Whatever be the disputes between the parties on merits of the case or even in relation to exercise of power by Union of India to nominate members on the C.C.I.M, one fact which cannot be disputed is that there is statutory obligation upon the Union of India to hold elections to the C.C.I.M. in accordance with law.

Whatever be the extent of effort required by Union of India, it cannot be an excuse for non-fulfillment of such statutory requirements. Election to the C.C.I.M. has great impact upon its functioning. The C.C.I.M. is constituted majorly of elected as well as nominated members. Therefore, timely holding of election is the essence to the proper governance and functioning of the C.C.I.M.

We have heard learned counsel appearing for the parties on the matters in issue before us. Keeping in view

the stand taken by the Union of India and the submissions made at the Bar, we pass the following directions by way of interim arrangement and subject to decision of the writ petitions on merits:

(1) Elections in the States of Delhi, Gujarat, Goa, Himachal Pradesh and Karnataka, where Returning Officers as well as seats have been notified and funds have also been released by the Government of India shall be completed by 1st June, 2011.

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(2) In the States of Andhra Pradesh, Haryana, Kerala, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal also, Returning Officers as well as seats have been notified and funds have been released by the Government of India but keeping in view the submissions of the Union of India that they be granted further time for completion of the election process in these States, we direct that elections be completed in these States by 29th July, 2011.

[3] As regards States of Bihar, Chhattisgarh, Uttarakhand and Madhya Pradesh, where also Returning Officers/seats have been notified and funds have been released by the Government of India, but election schedule is yet to be submitted and since these States are finding it difficult to finalise the voters lists, we direct that the election process should be completed and result be declared by 30th August, 2011. In these States, we direct and also who grant liberty to the State Government(s) to approach the State Election Commission(s) to seek all assistance in this regard and to actually hold elections under its aegis within the time allowed. The liability of the State Government shall co-exists with that of the State Election Commission.

[4] In the State of Jharkhand also, the election shall be concluded by 29th July, 2011, without fail.

[5] We are informed that a writ petition, being Writ Petition No.199 of 2011, CWP No.242/2011, titled as Ram Krishan vs. Union of India, has been filed in the High Court of Jammu and Kashmir and the same has been admitted by that High Court but no interim order has been passed. We direct that the election process in the State of Jammu and Kashmir should be completed by 29th July, 2011, and the direction of this Court would be brought to the notice of the High Court of Jammu and Kashmir, as and when the case comes up for hearing.

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[6] In regard to the States of Rajasthan and Punjab, it has been contended on behalf of Union of India that CWP No.1435 of 2008, titled as Ved Prakash Tyagi vs. Union of India and CWP No.4657 of 2011, titled as shri Kul Bhushan vs. Union of India have been filed in the High Courts of Rajasthan and Punjab and Haryana respectively. Interim

orders have been passed by those High Courts staying the election process on the ground of defective voters list. direct the petitioners as well as the Union of India to appear before the concerned High Courts and pray for vacation of the said interim orders and/or final disposal of the writ petition(s) itself. We request the High Courts concerned to take up the matters for hearing at the earliest and, if necessary, even in the vacations and dispose of the matters in accordance with law finally or at least in relation to vacation or otherwise of the interim orders passed by the respective High Courts.

We

We have no doubt in our mind that the High Courts would endure their best to act in furtherance to the request made by this Court. We further direct that subject to the orders of the High Courts, the election process shall be completed by Union of India in both these States by 30th August, 2011.

All the concerned Authorities, State Governments, State Election Commission, wherever specific directions have been issued to it, and members of the respective Councils shall fully cooperate and ensure that the directions issued by us in this order are complied with in their spirit and substance.

We do not propose to pass any direction at this stage in Writ Petition (C) No.249 of 2011 as it will tantamount to allowing the writ petition at the interim stage.

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In view of the directions issued by us, no orders are required to be passed on I.A. No.5, which is, accordingly, disposed of.

Place these petitions on 18th July, 2011, as already notified.

.....CJI.
[S.H. KAPADIA]

.....J.
[K.S. PANICKER RADHAKRISHNAN]

.....J.
[SWATANTER KUMAR]

New Delhi,
May 13, 2011.