

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. – OA 840 OF 2022

ARNAB RAY - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

03
02.08.2023

For the Applicant : Mr.Manujendra Narayan Roy
Mr.Biswarup Nandy
Advocates
For the State Respondents : Mr.Goutam Pathak Banerjee
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the reasoned order passed by the respondent No.2, Secretary, Department of Health and Family Welfare on 11.07.2022. In compliance of the Tribunal's direction in OA-50 of 2020, this reasoned order was passed. The issue relates to allowing private practice to the applicant who is an Ayurvedic Physician and belongs to the cadre of West Bengal Ayurvedic Education Service. The reasoned order states that this Ayurvedic Service is a non-practicing service and only by amendment of the related rule any member of Ayurvedic service can do private practice.

In response to what the Secretary has relied for rejecting the application for private practice, Mr.M.N.Roy, learned counsel for the applicant has drawn my attention to the West Bengal State Ayurvedic Health Service Act, 2002, appearing at page 78 is Section 6. The relevant part of this Section 6 is as under:

6. (1) *The State Government may, by notification, declare any undergraduate or post-graduate Ayurvedic Medical College or other ayurvedic teaching institution together with the Hospital, if any, attached to such Ayurvedic Medical College or ayurvedic teaching institution to be a non-practising institution with effect from such date as may be specified in the notification.*

(2) *Upon such declaration, no person, holding any post on terms and conditions for practice in such Ayurvedic Medical College or other ayurvedic teaching institution or the Hospital attached thereto, shall be allowed to hold such post on terms and conditions for practice.*

Provided that any person holding a non-teaching post in such Ayurvedic Medical College or other ayurvedic teaching institution or the Hospital attached thereto on terms and conditions for practice may exercise an option for practice or non-practice without any change of post or designation within a period of ninety days from the date of coming into force of this Act or within such extended period as the State Government may be notification specify.”

Submission of Mr.Roy is from the foregoing section, it can be understood that an institution has to be first declared as a non-practicing institution. Once such an institution has been declared as “non-practicing”, thereafter, no person will be able to practice in private places. The Institute in reference, J.B.Roy State Ayurvedic Medical College and Hospital has not been declared by the State Government as a non-practicing institution. Therefore, the question of not allowing the applicant for private practice does not arise.

Mr.G.P.Banerjee, learned counsel prays for accommodation to

ORDER SHEET

Form No.

ARNAB RAY

Case No **OA 840 OF 2022**

Vs.
THE STATE OF WEST BENGAL & OTHERS.

file reply on behalf of the respondents by the next date.

Let the matter appear under the heading 'Hearing' on
14th February, 2024. Reply, rejoinder, if any, in the meantime.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR