



2026:CGHC:11136

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 773 of 2025

Dr. Rakesh Gupta S/o Shri Sardari Lal Gupta Aged About 63 Years R/o Near R.C Industries, In Front Of New Bus Stand, Main Road, Pandri, Raipur, District Raipur, Chhattisgarh.

... Petitioner(s)

versus

1 - The State Of Chhattisgarh Through Secretary, Department Of Public Health And Family Welfare, Mantralay, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh.

2 - The Director, Department Of Public Health And Family Welfare, Mantralay, Indrawati Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh.

3 - The Chhattisgarh State Pharmacy Council Through Its President, Anand Nagar, Raipur, District Raipur, Chhattisgarh, 492006

4 - Shri Ashwani Gurdekar Store Keeper Cum Registrar, Chhattisgarh State Pharmacy Council, Anand Nagar, Raipur, District Raipur, Chhattisgarh, 492006

... Respondent(s)

For Petitioner	: Mr. Sandeep Dubey, Advocate with Mr. Manas Bajpai, Advocate
For State/Resp. No. 1 & 2	: Mr. Gary Mukhopadhyay, Additional Advocate General
For Respondents No. 3 & 4	: Mr. Vaibhav Goverdhan, Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

03/03/2026

1. Petitioner has filed this writ petition challenging the appointment of respondent No.4 on the post of Registrar of Chhattisgarh State Pharmacy Council on the grounds pleaded in the writ petition and sought following reliefs:-

“10.1] That, the Hon'ble Court may kindly be pleased to issue writ/writs/ direction/directions, in the nature of quo warranto to quash the impugned appointment order dated 14.03.2024 of respondent no. 4 (Annexure-P/1).

10.2] That, the Hon'ble Court may kindly be pleased to issue writ/writs/ direction/directions, in the nature of quo warranto and direct the respondent state to restrain the respondent no. 4 to continue on the post of Registrar, Chhattisgarh State Pharmacy Council.

10.3] That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

2. Learned counsel for the petitioner submits that Chhattisgarh State Pharmacy Council (hereinafter it shall be referred to as “*Council*”) is established vide order dated 09.10.2003 under the Pharmacy Act, 1948 (for short “*Act of 1948*”). Councils are governed by Madhya Pradesh/Chhattisgarh Aushad Nirman Shala Parishad Niyam, 1978 (for short “*Rules of 1978*”) framed under the Act of 1948. Registrar is defined under Rule 2 (३) of the Rules of 1978. Registrar means “Registrar” appointed under Section 26 of the Act of 1948. Referring to Section 26 of the Act of 1948, it is argued that it is for the Council to appoint a Registrar with previous sanction of State Govt. He further referred to Rule 96 of the Rules of 1978 to submit that Registrar should

be the full time salary paid officer of the Council and further made submissions based on Rule 96 (2), that ordinarily, Registrar should be the retired Medical Officer of State Govt. It is contention of learned counsel for the petitioner that respondent No.4 who has been appointed as Registrar pursuant to order dated 14th March 2024 (Annexure P-1) is in contravention of the Act of 1948 and Rules of 1978. Respondent No.4 is not holding the post of Class-II Officer. He is an employee of Dr. Bhimrao Ambedkar Memorial Hospital, Raipur and posted as Store Keeper. Appointment of petitioner was not even made by the proceeding initiated by Council but order of appointment of respondent No.4 is issued by the State Govt. Provision under Section 26 of the Act of 1948 provides that appointment of Registrar is to be made by Council and not by the State Govt. and therefore order Annexure P-1 is without jurisdiction and it is to be set aside. In support of his contention, he relies upon the decision in case of **Narayan Sharma Vs. State of Chhattisgarh & Ors.** (WPS No.2491 of 2014, decided on 20th August 2014). It is also submitted that decision in the case of **Narayan Sharma** (supra) has been upheld by the Division Bench of this Court.

3. On the other hand, learned counsel for the respective respondents vehemently oppose submission of learned counsel for the petitioner and would submit that appointment of respondent No.4 is not as Registrar but he has been given additional charge of post of Registrar. They also contended that petitioner with ill-intention has filed this writ petition because pursuant to initiative taken by respondent No.4, initially petitioner was removed from the Membership of Council and therefore writ petition filed by petitioner would not be maintainable.

It is also contention of learned counsel for respondents that from the documents enclosed along with reply filed by respondent No. 3 & 4 it is apparent that petitioner at every stage of proceeding of appointment of Registrar has raised objection. He has also filed complaint against appointment of Registrar of one Shrikant Rajimwale. They also submit that Section 26 of the Act of 1948 provides that Registrar is to be appointed on sanction of State Govt. and therefore order Annexure P-1 has been passed by the State Govt. Hence, it cannot be said to be erroneous. Learned counsel for respondents No. 3 & 4 would submit that when Dr. Shekhar Verma was appointed as Registrar by the Council then also petitioner had raised objection to his appointment which clearly shows that petitioner is creating hurdle in smooth functioning of Council.

4. Learned counsel for the State in support of his contention relies upon decision in the case of **B. Srinivasa Reddy Vs. Karnataka Urban Water Supply & Drainage Board Employee' Assn. And Ors.** (2006) 11 SCC 731 as also decision in the case of **S.P. Tiwari Vs. State of Chhattisgarh & Ors.** (WPS No.4179 of 2016, decided on 31.10.2025).

5. At this sage learned counsel for the petitioner would submit that in the rejoinder, petitioner has denied his signature appearing in the complaint (filed along with reply of respondents No. 3 & 4) along with other four persons.

6. I have heard learned counsel for the parties, perused the record of the case including the documents annexed along with the writ petition as well as the reply filed by the respondents.

7. The question which falls for consideration is whether the order dated 14.03.2024 (Annexure P-1), whereby respondent No.4 has been assigned the charge of the post of Registrar of the Chhattisgarh State Pharmacy Council, is in consonance with the provisions contained in the Pharmacy Act, 1948 and the Madhya Pradesh/Chhattisgarh Aushad Nirman Shala Parishad Niyam, 1978.

8. Chhattisgarh State Pharmacy Council has been constituted under the provisions of the Pharmacy Act, 1948. Section 26 of the Act of 1948 provides for- *Staff, remuneration and allowances*. Clause (a) of Section 26 deals with appointment of Registrar. Relevant portion of Section 26 is re-produced herein-below for ready reference :

“26. Staff, remuneration and allowances. The State Council may, with the previous sanction of the State Government,-

(a) appoint a Registrar who shall also act as Secretary and, if so decided by the State Council, Treasurer, of the State Council;

x	x	x
x	x	x
x	x	x

9. A careful reading of above provision makes the legislative intent clear. The provision contemplates a two-stage process for appointment of Registrar. The first stage is the decision of the State Council to appoint a Registrar and the second stage is obtaining previous sanction of the State Government. The expression “with the previous sanction of the State Government” indicates that the role of the State Government is supervisory in nature and not that of the appointing authority.

10. Further, Rule 96 of the Rules of 1978 provides that the Registrar shall be a full-time salaried officer of the Council. Sub-rule (2) of Rule 96 stipulates that ordinarily the Registrar should be a retired Medical Officer of the State Government. The Rules therefore not only prescribe the nature of the post but also indicate the eligibility and manner of appointment.

11. In the present case, perusal of the order dated 14.03.2024 (Annexure P-1) reveals that respondent No.4 has been assigned the charge of the post of Registrar by the State Government. Nothing has been brought on record by the respondents to demonstrate that such assignment of charge was made pursuant to any resolution or decision of the Council. In absence of any such material, it is apparent that the State Government has directly issued the order assigning charge of the post of Registrar. It is a well-settled principle that when a statute prescribes that a particular act must be performed in a particular manner, the same must be done strictly in that manner and in no other way. Any deviation from the statutorily prescribed procedure renders the action legally unsustainable.

12. In case of **Nazir Ahmad Vs. The King Emperor** (1936 SCC OnLine PC 41) it was held that “*where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden*”.

13. Even if the submission of the respondents that respondent No.4 has been given only an additional charge is accepted, the same cannot be sustained in law. The reason being that the statutory power to appoint or to make arrangements for the post of Registrar vests in the

Council itself. The State Government cannot assume the role of the appointing authority under the statutory scheme of Section 26 of the Act of 1948. It is also not in dispute that respondent No.4 is working as a Store Keeper at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur and is not shown to be holding a position fulfilling the requirements contemplated under Rule 96 of the Rules of 1978.

14. The contention raised by learned counsel for respondents that the present writ petition has been filed with an oblique motive and that the petitioner has earlier raised objections regarding appointment of Registrar on other occasions does not persuade this Court to take a different view. When the action of the authority is found to be contrary to the statutory provisions, the same can always be subjected to judicial review under Article 226 of the Constitution of India irrespective of the motive attributed to the petitioner.

15. Reliance placed by learned counsel for the respondents in case of **B. Srinivasa Reddy** (supra) is misplaced in the facts of the present case. In that case Hon'ble Supreme Court observed that a writ of *quo warranto* can only be issued if an appointment clearly violates statutory rules. It was held that since the relevant Act and Rules did not specify a particular mode or tenure of appointment, the Government had the discretion to make a contractual appointment "until further orders." In the case at hand, the challenge is based upon violation of the statutory provisions governing the appointment of Registrar under the Act of 1948 and the Rules of 1978 and as discussed herein-above, statute clearly prescribes the manner in which an act is to be performed i.e. appointment of Registrar. In this case, appointment on the post of

Registrar is made by the State Govt. in disregard of the mandatory provisions of the statute and rules framed thereunder.

16. Similarly, the judgment relied upon by learned counsel for the respondents in case of **S.P. Tiwari** (supra) does not assist the respondents as the factual matrix therein is clearly distinguishable and does not involve the issue relating to statutory competence of the appointing authority under Section 26 of the Act of 1948.

17. In view of the aforesaid discussions, this Court is of the considered opinion that the order dated 14.03.2024 (Annexure P-1), whereby respondent No.4 has been given charge of the post of Registrar of the Chhattisgarh State Pharmacy Council, has been issued by an authority not competent under the statute and is therefore unsustainable in law.

18. Accordingly, order dated 14.03.2024 (Annexure P-1) appointing respondent No.4 on the post of Registrar of the Chhattisgarh State Pharmacy Council is hereby quashed.

19. Respondents are at liberty to initiate fresh proceeding for appointment of Registrar of the Chhattisgarh State Pharmacy Council strictly in accordance with the provisions contained in Section 26 of the Act of 1948 and Rules of 1978.

20. Writ petition is accordingly allowed. No order as to costs.

Sd/-

(Parth Prateem Sahu)

Judge