Reserved on 09.07.2026
Delivered on 10.07.2026

2026:AHC:138560-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 21019 of 2026

Santosh Kumar Sharma

…..Petitioner(s)

Versus

State of U.P. and 5 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Ashok Kumar Singh, Pratibha Singh
Counsel for Respondent(s)	:	C.S.C.

AFR

Court No. - 2

HON'BLE J.J. MUNIR, J.
HON'BLE INDRAJEET SHUKLA, J.

(Delivered by Indrajeet Shukla, J.)

1. Heard Mr. Ashok Kumar Singh, learned Counsel for the petitioner and Mr. Akhilesh Kumar Tripathi, learned Standing Counsel appearing on behalf of respondent nos.1 to 5.

2. The writ petition assails the order dated 16.02.2026 passed by fourth respondent/Chief Medical Officer, Etah, District Etah, whereby the hospital of the petitioner has been sealed in compliance of letter no.1670/(1)/03.06.2024/ issued by the Principal Secretary, Government of U.P. Further, the petitioner has prayed for the issue of a writ in the nature of mandamus commanding State authorities to permit the petitioner to operate his Clinic and practice modern medicine.

3. Facts in brief are being delineated as under:

(i) The petitioner claims that he has obtained Vocational Certificate Code No.802 (Community Health) in the year 2005 from the National Institute of Open Schooling and based on said certificate is eligible to practice modern scientific medicine.

(ii) The petitioner was put under notice on 26.06.2019 by the Chief Medical Officer, Etah to submit his degrees and educational record entitling him to practice medicine to which the petitioner replied on 03.07.2019. Thereafter, he again submitted a detailed stand on 27.12.2024, annexing all his academic testimonials with a request to withdraw the notice.

(iii) The petitioner was lastly served with a show cause notice dated 01.05.2025 for the closure of his Clinic, which impelled the petitioner to knock the doors of this Court by virtue of **Writ-C No.41953 of 2024 (Santosh Kumar Sharma Vs. State of U.P.).** The said writ petition was disposed off on 08.01.2026 with following order:

> *"1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.*
>
> *2. The petitioner has been issued show cause notice dated 01.05.2025 for certain deficiency found in the clinic of the petitioner and also sealed the clinic.*
>
> *3. It appears from the show cause notice that three days' time has been granted to the petitioner to submit documents as sought for.*
>
> *4. Learned counsel for the petitioner has contended that several replies to the show cause notice have been given by the petitioner, but the competent authority has not yet considered the same.*
>
> *5. Learned Standing Counsel would submit that no useful purpose would be served in keeping the writ petition pending and appropriate direction may be issued to the competent authority to consider the grievance of the petitioner.*
>
> *6. In view of the aforesaid facts, we dispose off the writ petition permitting the petitioner to file a detailed objection/representation against the show cause notice dated 01.05.2025 before the respondent no.4-Chief Medical Officer, Etah within a period of two weeks from today. On filing such objection enclosing earlier objections filed against the said show cause notice, the respondent No.4 is directed to decide the objection of the petitioner against the show cause notice within a period of one month from the date he receives the objection of the petitioner, after giving due notice and opportunity of hearing and supplying all materials to be relied upon by the authority concerned against the petitioner."*

(iv) The petitioner submitted an exhaustive representation in compliance of order dated 08.01.2024 along with relevant documents which he relied upon, to show his authority to practice medicine, but his representation could not find favour with the respondents.

(v) The petitioner's representation has been rejected vide order dated 16.02.2026 passed by respondent no.4 observing inter-alia that petitioner is practicing and treating patient with allopathic medicines, but is not entitled to practice aforesaid stream of medicine without being registered in the office of the Chief Medical Officer as warranted by Government Order No.2374/5-2001 dated 16.09.2021. It was also remarked that no registration/operation of Clinic can be permitted for a practitioner holding a degree in 'Electrohomeopathy'.

(vi) It has further been mentioned that the holder of a certificate/diploma in Electrohomeopathy cannot be allowed to practice allopathic medicine being prohibited by Government Orders no. Anubhag-1, Sankhya-1297/71- Ayush-2016 Davlu-283/293/2014, Lucknow dated 03.08.2016 and Uttar Pradesh Chikisa Anubhag-6, Sankhya-726/Panch-6-2023 Lucknow dated 13.04.2023.

Further, the clinic set up by the petitioner does not meet the standards set up by Manak Dainik Sthapan *(Registrikaran aur Viniyaman),* Adhiniyam, 2010, Uttar Pradesh Shashan, Chikitsa Anubhag-6, Sankhya-2374/panch-5-2021 Lucknow dated 16.09.2021 and Uttar Pradesh Shashan Ayush Anubhag-1, Sankhya-1297/71-Ayush-1-2016-davlu-283/2014, Lucknow dated 03.08.2016.

(vii) Lastly, the so called clinic/hospital does not have a biomedical waste management system and even a fire NOC was not found. The hospital/clinic was not found observing infection prevention and control system, which is non-compliance with mandatory provisions to run a clinic/hospital.

(viii) Since the petitioner could not show any valid qualification to practice allopathic medicine or authority to operate a clinic, the registration of the petitioner to practice allopathic medicine was not found valid and, consequently, the seal on his hospital was not removed. The criminal law has also been set in motion and the representation of the petitioner rejected.

4. Learned counsel for the petitioner strenuously urged that adequate opportunity of hearing was not afforded before passing order under challenge. It is further contended that the complaint moved by respondent no.6 was actuated by sheer vengeance, and the petitioner having long experience in the field of medicine, ought not have been deprived of by sealing his clinic/hospital.

5. It was further submitted that right to practice a profession, including medicine, is an integral part of Article 19(1) (g) of the Constitution of India and impugned order being *exfacie* bad warrants interference.

6. Refuting the submissions of the learned Counsel for the petitioner, the learned Standing Counsel submitted that the certificate of electrohomeopathy can by no stretch of imagination confer authority upon the petitioner to practice modern medicine, and order passed by 4th respondent is valid in the eyes of law.

7. The health of public at large is the primary responsibility of the State Government. As such, any quack cannot be permitted to play with the health of the general public. The practice of medicine

is regulated by the Statutes and Government Orders, which occupy the field and prescribe standards. It is the State's duty to protect public health from unqualified practitioners.

8. It is well settled that a practitioner registered under one system of medicine cannot transgress and practice another system, particularly 'allopathy' without requisite qualification and registration, and that doing so amounts to negligence *per se* exposing both the practitioner and the public to grave risk (**see Poonam Verma Vs. Ashwin Patel (1996) 40 SCC 332).** Likewise, the Supreme Court has held that a practitioner of Indian system of medicine is not entitled to prescribe allopathic drugs unless expressly permitted by the governing statute or rules framed thereunder **(see Dr. Mukhtar Chand Vs. State of Punjab (1998) 7 Scc 579).**

9. The petitioner's certificate in electrohomeopathy by no stretch of imagination can be said to be a valid degree/diploma entitling him to practice modern medicine (allopath).

10. Having considered the rival submissions advanced by parties and perused the record, it comes out that the petitioner though in possession of a certificate in electrohomeopathy is not thereby entitled to practice modern medicine, particularly the allopathic system. The seal on the petitioner's clinic has been declined to be removed for the reason that it does not meet the standards to operate a hospital/clinic, and even unqualified doctors were found to be practicing modern medicine on the premises of the hospital in question.

11. A person, who does not have knowledge of a particular system of medicine but practices in that system is a quack and a

mere pretender of medical knowledge or skill or to put it differently, can be maximum termed a charlatan.

12. A person can practice in allopathic system of medicine in State or in the country only if he possess a recognized medical qualification. Permitting a person, who does not possess the recognized medical qualification in the allopathic medicine would be in direct conflict with the Statute governing the field. In the case of **Dr. Mukhtar Chand (supra)** the Supreme Court has held:-

> *"47. A harmonious reading of Section 15 of 1956 Act and Section 17 of 1970 Act leads to the conclusion that there is no scope for a person enrolled on the State Register of Indian medicine or Central Register of Indian Medicine to practise modern scientific medicine in any of its branches unless that person is also enrolled on a State Medical Register within the meaning of 1956 Act.*
>
> *48. The right to practise modern scientific medicine or Indian system of medicine cannot be based on the provisions of the Drugs Rules and declaration made thereunder by State Governments. Indeed, Ms. Indira Jaising has also submitted that the right to practise a system of medicine is derived from the Act under which a medical practitioner is registered. But she has strenuously argued that the right which the holders of degree in integrated courses of Indian medicine are claiming is to have their prescription of allopathic medicine, honored by a pharmacist or the chemist under the Pharmacy Act and the Drugs Act. This argument is too technical to be acceded to because prescribing a drug is a concomitant of the right to practise a system of medicine. Therefore, in a broader sense the right to prescribe drugs of a system of medicine would be synonymous with the right to practise that system of medicine. In that sense, the right to prescribe allopathic drug cannot be wholly divorced from the claim to practice allopathic medicine."*

13. The petitioner's clinic is admittedly not registered with the office of Chief Medical Officer, which is a *sine qua non* for practicing modern medicine and treating patients.

14. The right to practice a profession under Article 19(1) (g) of the Constitution of India is not an absolute right and remains subject to reasonable restrictions that the State may impose in the interest of the general public under Article 19(1) (g) of the Constitution of India **(see Chintaman Rao Vs. State of M.P., AIR 1951 SC 118).** Regulatory measures ensure that only qualified and registered persons practice medicine and the clinical establishment meet prescribed standards. Such restrictions are legitimate and proportionate restriction in the interest of public health and cannot

be said to offend Article 19(1) (g) of the Constitution of India **(see State of Gujarat Vs. Mirzapur Moti Kureshi Kassab Jamat, (2005) 8 SCC 534).**

15. In view of the aforesaid factual matrix and the law, the inescapable conclusion is that the petitioner is not entitled to practice modern medicine (allopathy) on the strength of his electrohomeopathy certificate. More so, his clinic/hospital also failed to meet the standards prescribed by various Government Orders as well as the **National Commission for Indian System of Medicine (NCISM) Act, 2020.** This Court under Article 226 of the Constitution of India cannot substitute its own wisdom and findings for those of competent expert authorities. The petitioner is not entitled to practice modern medicine. Accordingly, the writ petition fails and is hereby **dismissed.**

16. No order as to cost.

(**Indrajeet Shukla, J.**) (**J.J.Munir, J.**)

July 10, 2026
S.P.

Digitally signed by :-
SANJAY PURI
High Court of Judicature at Allahabad