

additional qualification in medical field by acquiring degrees in Electro Homocopathy.

3. The Director and Karnataka Ayurved and Unani Medical Board has given a list to District Ayush Officer, Ballari in which it is stated that the applicants are not having authorized registration and therefore opined that, they are not eligible for medical practice. It is this list which is subject matter of the dispute and has become the impediment to the applicants.

4. Having aggrieved by this some practitioners approached various courts and exhausted. Having realized this Karnataka Ayurved and Unani Medical Board, Bangalore in its order dt:24-10-2017 have stated that, the Board has no objection for the private practitioners to carry on their practice. But since alternative system of medicine is not having recognition in Karnataka, these problems have arised.

5. Therefore, the learned advocate prayed the Registration Authority to allow the applicants to get them registered to conduct private medical practice.

[C] The submissions made by the learned advocate for the applicants and the order of the Appellate Authority and the Hon'ble High Court of Karnataka passed in W.P.No.104207-10/2017 dt:07-01-2019 were verified. In the background of the provisions contained in the Karnataka Private Medical Establishment Act, 2007. From the examination of the above the following facts came to light.

1. Under Section 2(k) of KPME Act, 2007 "the Medical Practitioner" is defined as under;

***K. Medical Practitioner means a Medical Practitioner registered under the Homeopathic Practitioners Act, 1961 (Karnataka Act 35 of 1961) Ayurvedic Naturopathy, Siddha, Unani or Yoga Practitioners registration and medical practitioners miscellaneous provisions Act 1961),***

*Karnataka Act 9 of 1962, Medical Registration Act, 1961 (Karnataka Act 34 of 1961), Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970), Homeopathy Central Council Act, 1978 (Central Act 59 of 1973 and Medical Council Act, 1956 (Central Act 102 of 1956), to practice the system of medical which he has studied qualified and registered and includes a dentist registered under the Dentist Act, 1948 (Central Act 16 of 1948).*

2. But as could be seen from the certificates and documents furnished by the applicants it reveals that, they have not obtained academic certificates from any of the above institutions mentioned in sub section k of Section 2 of the KPME Act, 2007.

3. Further, Section 34 under Chapter III of the Karnataka Ayurvedic and Unani Practitioners Registration and Medical Practitioners Miscellaneous Provisions Act, 1961 provides that,

*(1) “ No person other than (i) a practitioner registered under Chapter ii of this Act or (ii) a practitioner registered under the ‘[Karnataka]’ Medical Registration Act, 1961 or the ‘[Karnataka]’ Homeopathic Practitioners Act, 1961 or a practitioner whose name is for the time being borne on the Indian Medical Register maintained under the Indian Medical Council Act, 1956 or (iii) a person whose name is entered in the list mentioned in section 18, shall practise or hold himself out, whether directly or by implication, as practising for personal gain any system of medicine, surgery or midwifery.*

But, in this case the applicant herein is not registered under the Karnataka Ayurvedic and Unani Practitioners Registration and Medical Practitioners Miscellaneous Provisions Act, 1961 as prescribed U/S 2K of KPME Act, 2007.

Sri. Kare Gouda the applicant has produced the certificate of Registration issued by Indian Board of Alternative Medicine attached to Government of West Bengal.

Sri. S.Lalya Naik the second applicant has produced the certificate of Registration issued by Indian Board of Alternative Medicine attached to Government of West Bengal.

But, none of the above courses have been mentioned in the Schedule of qualifications prescribed under Section 21 of the Karnataka Ayurvedic and Unani Practitioners Registration and Medical Practitioners Miscellaneous Provisions Act, 1961 (Act 9 of 1962).

Therefore, as narrated above none of the applicants have obtained the requisite qualification as prescribed under Section 21 (as specified in the Schedule) R/W Section 2(k) of KPME Act, 2007. Hence, their application for registration has been rightly rejected by the Registration Authority on 07-11-2014 and therefore it is found necessary not to take any other decision apart from the decision already taken on 07-11-2014 as the applicants are ineligible to be registered as Medical Practitioners. Hence the following order.

**ORDER**

**REV/MISC/55/2019-20**

**Dated: 12-6-2019**

Since, the applicants are not qualified as prescribed under sub Section K of Section 2 of the Karnataka Private Medical Establishment Act, 2007 and in the schedule prescribed U/S 21 of the Karnataka Ayurvedic and Unani Practitioners Registration and Medical Practitioners Miscellaneous Provisions Act, 1961 (Act 9 of 1962). the applications submitted to register them under Karnataka Private Medical Establishment Act, 2007, are rejected.

Order dictated, computerized copy edited and pronounced by me in the open court on 12.06.2019

  
Deputy Commissioner  
Ballari



**BEFORE THE DEPUTY COMMISSIONER AND REGISTRATION  
AUTHORITY UNDER KARNATAKA PRIVATE MEDICAL  
ESTABLISHMENT ACT, 2007**

**BETWEEN:**

1. Sri. Kare Gouda S/o Ramappa Ajjannavar, R/o Nelkudure 2<sup>nd</sup>,  
Kogali Post, Hagaribommanahalli Taluk, Ballari District.
2. Sri. S.Lalya Naik S/o Sanya Naik, R/o Rayaral Thanda,  
Hampapatna Post, Hagaribommanahalli Taluk, Ballari District.

**...APPLICANTS**

**AND**

The Chief Executive Officer,  
Zilla Panchayath, Ballari

**...RESPONDENT**

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This case was taken up for consideration following the remand order passed by the Hon'ble High Court of Karnataka in W.P.No.104214/2017 dt: 06-03-2019 and W.P.No.104213/2017 dt:06-03-2019 under the Karnataka Private Medical Establishment Act, 2007 in respect of the applicants herein.

**[A] BRIEF FACTS OF THE CASE:**

1. The applicants submitted application to register their clinics and to allow private practice under the Karnataka Private Medical Establishment Act, 2007. The Registering Authority on 21-04-2016 vide order No.Ji.Aa.ka/pmr/2016-17/58 rejected the applications on the ground that they have been not authorizedly registered and therefore not eligible to register as private practitioners to run the clinics.
2. Against the said order the applicants herein filed an appeal in APL No.KPME/16/2015-16 before the Appellate Authority under the K.P.M.E. Act, 2007 U/S 17. The said authority after conducting enquiry set aside the order passed by the Registration Authority on 07-11-2014 on the ground that, the provisions of Section 7(1) of the K.P.M.E. Act is a mandatory provision and any order passed without giving an opportunity of

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being heard is opposed to the principles of natural justice and after setting aside the said order remanded the case to the Registration Authority to dispose of the case after providing an opportunity of being heard as provided under Section 7(1) of K.P.M.E. Act.

3. As the enquiry in pursuance to the said directions of the Appellate Authority was not conducted by the Registration Authority the applicants herein filed a writ petition before the Hon'ble High Court of Karnataka at Dharwad in W.P. No.104214/2017 (GM-RES), 104213/2017(GM-RES), seeking mandamus direction to hold the enquiry and to dispose the case early. The Hon'ble High Court of Karnataka by clubbing all the above writ petitions passed an order on 06-03-2019 and directed the Registration Authority to consider and dispose of the petitioner's applications for registration within the period of 6 weeks from the date of receipt of certified copy of the order. Hence the case was taken up for consideration.

Notices were issued and the applicants were represented through their learned advocate Manjunath Hegde.

**[B]** The learned advocate for the applicants in his written submissions has made the following submissions in support of the applicants.

1.The applicants having completed their medical course/degree are practicing as Medical Practitioners since two decades. They applied for registration with their starting up clinic by paying necessary fee in the year 2014 as required under the K.P.M.E. Act.

2. The applicants have got all the necessary qualification prescribed to practice as private practitioners. They are having Registration Certificate from the Government and the certificates issued by the Indian Board of Alternative Medicines. Further by paying necessary fees they have submitted the Forms prescribed under the K.P.M.E. Act, 2007. They have also acquired