

23 MAR 2005

Bill No. XLIII of 2005

THE HOMOEOPATHY CENTRAL COUNCIL (AMENDMENT) BILL,
2005

A

BILL

further to amend the Homoeopathy Central Council Act, 1973.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Homoeopathy Central Council (Amendment) Act,
2005.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by
5 notification in the Official Gazette, appoint.

59 of 1973.

2. In the Homoeopathy Central Council Act, 1973 (hereinafter referred to as the
principal Act), in section 2, in sub-section (1),—

Amendment
of section 2.

(i) after clause (d), the following clause shall be inserted, namely:—

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'(da) "Homoeopathic Medical College" means a college of Homoeopathy,
whether known as such or by any other name, in which a person may undergo
a course of study or training including any post-graduate course of study
or training which will qualify him for the award of a recognised medical
qualification;';

(ii) after clause (e), the following clause shall be inserted, namely:—

'(ea) "member" means a member of the Central Council and includes the President and the Vice-President;';

(iii) after clause (f), the following clause shall be inserted, namely:—

'(fa) "President" means the President of the Central Council;';

(iv) after clause (j), the following clause shall be inserted, namely:—

'(ja) "Vice-President" means the Vice-President of the Central Council.'.

Amendment
of section 3.

3. In section 3 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

"(d) two officials to be nominated by the Central Government as members, *ex officio*, namely:—

(i) Adviser or Deputy Adviser (Homoeopathy), Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy; and

(ii) Director, National Institute of Homoeopathy."

Insertion of
new section
3A.

Reconstitu-
tion of
Central
Council.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

"3A. (1) The Central Government shall, as soon as possible, after the commencement of the Homoeopathy Central Council (Amendment) Act, 2005, reconstitute the Central Council, and by notification in the Official Gazette, publish the names of the members nominated or elected under sub-section (1) of section 3.

(2) On and from the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2005, the existing Central Council shall stand dissolved and all the members of the Central Council shall vacate their office.

(3) Till the new Central Council is reconstituted, the Central Government shall appoint a Board of Administrators as provided in sub-section (1A) of section 7."

Amendment
of section 7.

5. In section 7 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The President, Vice-President or a member of the Central Council shall hold office for a term of five years from the date of his election or, as the case may be, nomination and no longer:

Provided that the Central Government shall take or cause to be taken necessary steps for the reconstitution of a new Central Council at least three months before the expiry of the term of the Central Council.

(1A) If the Central Government is unable to reconstitute the Central Council within the specified time, it shall appoint a Board of Administrators consisting of not more than five members headed by a Chief Administrator, who are otherwise eligible to hold the office of the members of the Central Council, which shall exercise the powers and perform the functions of the Central Council till the new Central Council is reconstituted in the manner provided under this Act or the expiry of six months, whichever is earlier."

(b) in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that no member shall hold office for more than two terms."

6. After section 12B of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12C.

5 "12C. (1) If any person has established a Homoeopathic Medical College or any Homoeopathic Medical College has opened a new or higher course of study or training (including the post-graduate course of study or training) or increased the admission capacity in any course of study or training (including the post-graduate course of study or training) on or before the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2005, such person or Homoeopathic Medical College, as the case may be, shall seek, within a period of three years from the said commencement, permission of the Central Government in accordance with the provisions of section 12A.

Time for seeking permission for certain existing Homoeopathic Medical Colleges.

10 (2) If any person or Homoeopathic Medical College, as the case may be, fails to seek permission under sub-section (1), the provisions of section 12B shall apply, so far as may be, as if, permission of the Central Government under section 12A has been refused."

7. After section 30 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 30A, 30B, 30C, 30D and 30E.

20 "30A. (1) The Central Council may recommend to the Central Government for removal of the President, the Vice-President or any member on the grounds of misconduct or incapacity by a resolution passed by a majority of the total membership of the Central Council excluding the vacancies and a two-thirds majority of the members present and voting after having given a reasonable opportunity of being heard, and the Central Government may, after being satisfied of the grounds on which such removal is recommended, remove the President, the Vice-President or the member from the Central Council, by notification in the Official Gazette.

Removal of President, Vice-President or member of Central Council.

25 (2) When the President is removed by an order under sub-section (1), during the period of such removal, the powers and duties conferred and imposed on the President under this Act shall be exercised and performed by the Vice-President.

30 (3) Where the Vice-President is removed by an order under sub-section (1), during the period of such removal, the powers and duties conferred and imposed on the Vice-President under this Act shall be exercised and performed by such person who is otherwise eligible to become the member of the Central Council as the Central Government may appoint in that behalf.

35 (4) The President or the Vice-President or the member, as the case may be, shall be elected in the manner provided under this Act within the period of three months from the date on which the order of removal was issued under sub-section (1).

40 30B. Notwithstanding anything contained in section 7, if the Central Government considers it to be expedient in public interest that a member nominated to the Central Council under clause (c) of sub-section (1) of section 3 should withdraw from the Central Council, the Central Government may give such direction and if the member refuses to comply with the direction so given, it may, by order, remove such member from the Central Council.

Withdrawal and removal of nominated member of Central Council.

45 30C. (1) In the discharge of its functions under this Act, the Central Council shall be guided by such directions, as may be given to it in the public interest, by the Central Government.

Directions by Central Government.

(2) If any dispute arises between the Central Government and the Central Council as to whether a question relates to public interest or not, the decision of the Central Government thereon shall be final.

Power of
Central
Government
to dissolve
Executive
Committee
or any other
committee.

30D. (1) If the Central Government is of the opinion that the Executive Committee or any other committee of the Central Council is unable to perform or has made persistently defaults—

(a) in the performance of, the duties imposed on it by or under this Act or has exceeded or abused its powers; or 5

(b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C,

the Central Government may, by a notification published, together with a statement of the reasons therefor, in the Official Gazette, dissolve the Executive Committee or such other committee: 10

Provided that before issue of such notification, the Central Government shall give a reasonable time to the Executive Committee or such other committee, as the case may be, to show cause why it should not be dissolved and shall consider the explanations and objections, if any, of the Executive Committee or the other committee. 15

(2) Upon the publication of a notification under sub-section (1) dissolving the Executive Committee or, as the case may be, such other committee,—

(a) all the members of the Executive Committee or the other committee shall, notwithstanding that their term of office had not expired, as from the date of dissolution, vacate their offices as such members; 20

(b) all powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Executive Committee or the other committee, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may think fit from amongst the members of the Central Council: 25

Provided that the term of office of the person or persons so appointed under this sub-section shall not exceed a period of six months or till the time a new Executive Committee or such other committee is constituted, whichever is earlier.

30E. (1) If the Central Government is of the opinion that the President or the Vice-President or the member of the Executive Committee or any other committee of the Central Council is unable to perform or has made persistently defaults— 30

(a) in the performance of, the duties imposed on him under this Act or has exceeded or abused his powers; or

(b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C, 35

the Central Government may remove from office the President or the Vice-President or the member, as the case may be:

Provided that before such removal, the Central Government shall give a reasonable opportunity of being heard to the President or the Vice-President or the member, as the case may be, to show cause why he should not be removed from office and shall consider the explanations and objections, if any, of the President or the Vice-President or the member. 40

(2) Upon the removal from office under sub-section (1),—

(a) the President or the Vice-President or the member shall, notwithstanding that his term of office had not expired, as from the date of removal from office, vacate the office as such President or Vice-President or member; 45

Power of
Central
Government
to remove
President,
Vice-President
or member of
Executive
Committee or
any other
committee.

(b) all powers and duties which may, under the provisions of this Act, be exercised or performed by the President or the Vice-President, as the case may be, shall, during the period of removal from office, be exercised and performed by such person as the Central Government may think fit from amongst the members of the Central Council:

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Provided that the term of office of the person so appointed under this subsection shall not exceed a period of six months or till the time a new President or the Vice-President or the member, as the case may be, is elected in the manner provided under this Act, whichever is earlier."

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8. In section 32 of the principal Act,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted.

Amendment
of section 32.

9. In section 33 of the principal Act,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted.

Amendment
of section 33.

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10. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
34 and 35.

"34. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Central Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

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(2) If the Central Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Central Council.

Power of
Central
Government
to issue
directions for
making or
amending
regulations.

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35. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

Laying of
rules and
regulations.

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STATEMENT OF OBJECTS AND REASONS

The Homoeopathy Central Council Act, 1973 (59 of 1973) (HCC Act) provides for constitution of the Central Council of Homoeopathy for regulation of the educational standards of Homoeopathic Medical Colleges, maintenance of the Central Register of practitioners of Homoeopathy and for matters connected therewith.

2. The Central Council of Homoeopathy was initially constituted through nomination of members in the year 1973. Subsequently, elections to the said Central Council were conducted. Though the tenure of all the members of the said Central Council had expired in 2002, but it could not be reconstituted even after a lapse of more than two years. This is due to not updating the State Register of Homoeopathy, at the instance of sitting members, a pre-requisite for conducting elections in time. Sometimes, elections are delayed due to litigation and stay orders from court.

3. The election for the Central Council of Homoeopathy from Bihar and Maharashtra States could not be conducted till date and the members elected in 1989-90 are still continuing in the Central Council of Homoeopathy. It has been observed that such problem persists due to the existing provisions in section 7(1) of the Homoeopathy Central Council Act, 1973, which provide for term of five years from date of election or nomination, as the case may be, or until the election or nomination of the successor, whichever is longer.

4. Further, in the HCC Act, 1973, there is no provision for removal of the President, Vice-President of the Council and also withdrawal of the member nominated to the Council in case they commit some irregularity or unwanted activities. The Department is of the opinion that the tenure of the members should not exceed five years and also there should be a provision for the removal of the President, Vice-President or the members.

5. Sometimes, the Central Council abuses and exceeds its powers and in such conditions, there is a need to issue proper direction to the Central Council. Since there is no provision in HCC Act, 1973 to give directions to the Central Council in case of any irregularity, the Central Government is not in a position to check such activities.

6. The Homoeopathy Central Council Act, 1973 was amended with effect from 28.1.2003 to check the mushroom growth of sub-standard Homoeopathic Medical Colleges, increase in admission capacity and starting of new courses in such colleges. The permission of the Central Government is mandatory for establishing new colleges or starting new courses of study. The amendment shall require permission of the Central Government for existing Homoeopathic Medical College within a grace period of three years. This will improve the standard of Homoeopathic Medical Colleges in the country imparting training of Homoeopathic education. There is need to improve the standard of existing colleges, to bring uniformity of standard in existing Homoeopathic Colleges.

7. In order to meet the requirements, it is proposed to amend the Homoeopathy Central Council Act, 1973 so as to make provisions—

- (a) to define Homoeopathic Medical College;
- (b) to nominate *ex officio* members;
- (c) for seeking permission for certain existing Homoeopathic Medical Colleges;
- (d) to have fix tenure of elected or nominated members;
- (e) to remove the President, Vice-President and members on the grounds of misconduct or incapacity;
- (f) to dissolve the Executive Committee of the Central Council if it persistently defaults or abuses its powers; and
- (g) to give directions to the Central Council in public interest.

8. The proposed amendments will ensure timely election to the Central Council of Homoeopathy and streamline its functioning.

9. The Bill seeks to achieve above objectives.

ANNEXURE

EXTRACTS FROM THE HOMOEOPATHY CENTRAL COUNCIL ACT, 1973

(59 OF 1973)

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2. (1) In this Act, unless the context otherwise requires,—

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Definitions.

CHAPTER II

THE CENTRAL COUNCIL AND ITS COMMITTEES

3. (1) The Central Government shall, by notification in the Official Gazette, constitute for the purposes of this Act a Central Council consisting of the following members, namely:—

Constitution of Central Council.

* * * * *

7. (1) The President, Vice-President or a member of the Central Council shall hold office for a term of five years from the date of his election or nomination, as the case may be, or until his successor shall have been duly elected or nominated, whichever is longer.

Term of office of President, Vice-President and members of Central Council.

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(3) Members of the Central Council shall be eligible for re-election or re-nomination.

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32. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. (1) The Central Council may, with the previous sanction of the Central Government, make, by notification in the Official Gazette, regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such regulations may provide for—

Power to make regulations.

(a) the manner of election of the President and the Vice-President of the Central Council;

(b) the management of the property of the Central Council and the maintenance and audit of its accounts;

(c) the resignation of members of the Central Council;

(d) the powers and duties of the President and Vice-President;

(e) the summoning and holding of meetings of the Central Council and the committees thereof, the times and places where such meetings are to be held, and the conduct of business thereat and the number of members necessary to constitute a quorum;

(f) the functions of the committees constituted under section 9;

(g) the tenure of office, and the powers and duties of the Registrar and other officers and servants of the Central Council;

(ga) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 12A;

(gb) any other factor under clause (g) of sub-section (7) of section 12A;

(h) the qualifications, appointment, powers and duties of, and procedure to be followed by, inspectors and visitors;

(i) the courses and period of study of practical training to be undertaken, the subjects of examination and the standards of proficiency therein to be obtained, in any University, Board or medical institution for grant of recognised medical qualification;

(j) the standards of staff, equipment, accommodation, training and other facilities for education in Homoeopathy;

(k) the conduct of professional examinations, qualifications of examiners and the conditions of admission to such examinations;

(l) the standards of professional conduct and etiquette and code of ethics to be observed by practitioners of Homoeopathy;

(m) the particulars to be stated, and the proof of qualifications to be given in applications for registration under this Act;

(n) the manner in which and the conditions subject to which an appeal under section 25 may be preferred;

(o) the fees to be paid on applications and appeals under this Act; and

(p) any matter for which under this Act provision may be made by regulations.

(2) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

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RAJYA SABHA

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BILL

further to amend the Homoeopathy Central Council Act, 1973

(Dr. Anbumani Ramadoss, Minister of Health & Family Welfare)