

PARLIAMENT OF INDIA

RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON HEALTH AND FAMILY WELFARE

ELEVENTH REPORT

ON

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) BILL-2005

(PRESENTED TO THE RAJYA SABHA ON 29TH JULY, 2005)
(LAID ON THE TABLE OF LOK SABHA ON 29TH JULY, 2005)

RAJYA SABHA SECRETARIAT
NEW DELHI
July, 2005/ Sravana, 1927 (SAKA)

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COMPOSITION OF THE COMMITTEE (2005-2006)

1. Shri Amar Singh — *Chairman*
- MEMBERS**

RAJYA SABHA

2. Shrimati Sukhbuns Kaur
3. Shri Yusuf Sarwar Khan *alias* Dilip Kumar
4. Dr. A.K. Patel
5. Shrimati Maya Singh
- *6. Shri Tariq Anwar
7. Shri R. Sarath Kumar
8. Shri Lalming Liana
- **9. Dr. M.A.M. Ramaswamy
- \$10. Shri M.P. Abdussamad Samadani
11. Vacant

LOK SABHA

12. Shri D.K. Adikesavulu
13. Shri M.H. Ambareesh
14. Smt. B. Sushila Devi Laxman
15. Dr. M. Baburao
16. Dr. R.C. Dome
17. Smt. Maneka Gandhi
18. Smt. Bhavana Pundlikrao Gawali
19. Shri S. Mallikarjunaiah
20. Dr. Chinta Mohan
21. Shri Rasheed Masood
22. Ms. Archana Nayak
23. Shri D.B. Patil
24. Shri Nakul Das Rai
25. Shri Rajendra Kumar
26. Smt. K. Rani
27. Md. Shahabuddin
28. Dr. Arvind Kumar Sharma
29. Shri Uday Singh
30. Smt. V. Radhika Selvi
31. Shri Kailash Nath Yadav
32. Dr. Karan Singh Yadav

SECRETARIAT

Shri N.C. Joshi, Additional Secretary

Smt. Vandana Garg, Joint Secretary
 Shri P.R. Guharoy , Director
 Shri Momraj Singh, Under Secretary
 Shri S.C. Dixit, Committee Officer

 *Ceased to be Member w.e.f. 31st August, 2004

** Nominated w.e.f. 31st August, 2004

\$ Ceased to be Member w.e.f. 14th December, 2004

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Health & Family Welfare, having been authorized by the Committee to present the Report on its behalf, present this Eleventh Report of the Committee on the Indian Medicine Central Council (Amendment) Bill-2005. *

In pursuance of Rule 270 relating to the Department related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred** the Indian Medicine Central Council (Amendment) Bill 2005 (Annexure-I) as introduced in the Rajya Sabha on the 23rd March 2005 and pending therein, to the Committee on the 19th April 2005 for examination and report, within a period of three months.

The Committee considered the Bill in four meetings held on the 12th May, 25th May, 1st July and 14th July, 2005.

4. At its meeting held on the 12th May, 2005, the Committee heard the Secretary of the Department of AYUSH. Thereafter, on 25th May, 2005 the Committee held extensive discussions with the office-bearers of the Central Council of Indian Medicine and some experts (Annexure-II). In its meeting held on 1st July, 2005, the Committee took up Clause-by-clause consideration of the Bill. The Committee in its meeting held on the 14th July, 2005, considered the draft Report and adopted the same.

5. The Committee has relied on the following documents in finalizing the Report:

- (i) Background Note and Clause-by-Clause Note on the Bill received from the Department of AYUSH;
- (ii) Presentation and clarification by Secretary of the Department.
- (iii) Memoranda received on the Bill from the President, Indian Medicine Central Council and individuals/experts on the Bill.
- (iv) Replies to the Questionnaire on the Bill; and
- (v) Oral evidence on the Bill.,

6. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee and submitted their valuable suggestions on the subject matter of the bill.

7. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI

14th July , 2005

AMAR SINGH

Chairman,

Department-related

23 Asadha , 1927 (Saka)

Parliamentary

Standing Committee on Health and Family
Welfare

* Published in Gazette of India Extraordinary part II Section 2, dated 23rd March, 2005.

** Rajya Sabha Parliamentary Bulletin Part II, No 42127, dated 19th April 2005

REPORT

The Indian Medicine Central Council (Amendment) Bill-2005 aims to amend the Indian Medicine Central Council Act, 1970 which provides for constitution of the Central Council of Indian Medicine for regulation of the education and maintenance of a Central Register of practitioners of Ayurveda, Siddha and Unani systems of medicines and for matters connected therewith.

2. The Statement of Objects and Reasons appended to the Bill is as under: -

“The Central Council of India Medicine (CCIM) was initially constituted through nomination of members in 1971. Subsequently, elections to the said Council were conducted. Though the tenure of all the members of the said Council elected in 1994-95 had expired in 2000, it could not be re-constituted even after a lapse of more than four years. The election process has been completed only in 11 out of 18 States that maintain the State Register of Indian Medicine. The State Registers are not updated from time to time and no urgency is shown to holding of elections because of the existing legal provisions that allow the sitting members to continue till the next elections are held. As elections are not held simultaneously in all the states, it has also become difficult to re-constitute the CCIM. Sometimes elections are delayed due to litigation and stay orders from court.

The election to the Central Council of Indian Medicine from the State of Bihar could not be conducted during 1994-95 and the members elected in 1983-84 are still continuing in the Central Council of Indian Medicine. Such a problem persists due to the provisions under section 7(1) of the Indian Medicine Central Council Act, 1970, which provide for a term of five years from the date of election or nominations, as the case may be, or until the election or nomination of the successor, whichever is longer.

Further, in the IMCC Act, 1970, 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.

In order to meet the requirements, it is proposed to amend the Indian Medicine Central Council Act, 1970 so as to make provisions-

- (a) to nominate ex officio members;
- (b) to have fix tenure of elected or nominated members;
- (c) to remove the President, Vice-President and members on the grounds of misconduct or incapacity;
- (d) to dissolve any committee of the Central Council if it persistently defaults or abuses its powers; and
- (e) to give directions to the Central Council in public interest.

The proposed amendments will ensure timely election to the Central Council of Indian Medicine and streamline its functioning.”

3. The Secretary, Department of AYUSH deposing before the Committee on the 12th May, 2005 put forward the Department’s view for bringing the Bill. Outlining the history of the Central Council of Indian Medicine, since its constitution in 1970, the Secretary drew the attention of the Committee to inherent flaws in some provisions of the Indian Medicine Central Council Act, 1970. The Secretary emphasized that this has resulted in under delay in the elections to the Central Council and arbitrary decisions being taken by it. In order to bring about overall quality improvement in the education standards of Indian Medicine, the Indian Medicine Central Council (Amendment) Bill, 2005 has been brought before the Parliament, it was clarified.

4. The Committee, in its meeting held on the 1st July 2005 took up 'clause-by-clause' consideration of the Bill. The clauses where the Committee has suggested amendments are given in the succeeding paragraphs.

Clause 2

4.1 Section 2 of the Indian Medicine Central Council Act, 1970 deals with 'definitions'.

Clause 2 (i) defines the term " Member" as follows:-

'Member' means a member of the Central Council and includes the President and a Vice-President'

The Committee feels that the definition should also specify the category of member-whether elected or nominated. The Committee, accordingly recommends that the following definition of "member" may be inserted after clause (f) in section 2(1) of the Principal Act -

'(fa) "Member" means any member of the Central Council, elected or nominated and includes President or Vice-President.'

4.3 Clause 2 (iii) defines 'Vice- President' as 'Vice-President of the Central Council and includes a Chairman of the Committee'.

4.4 The Committee notes that as provided in section 9 of the Principal Act, there are three Committees for Ayurveda, Siddha and Unani and Vice- President for each system of Indian Medicine shall be the Chairman of each Committee. The Committee feels that the definition of Vice-President should be specific and accordingly recommends the following definition :-

'(l) "Vice-President" means a Vice-President of the Central Council who are also Chairman of Ayurveda,Unani and Siddha Committee respectively.'

Clause 3

5.1 This clause seeks to insert the provision regarding nomination of following six ex-officio members to the Central Council by the Central Govt. in section 3 of the Principal Act: -

- (i) Adviser or Deputy Adviser from each of the Ayurveda, Siddha and Unani systems of medicine in the Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy;
- (ii) Director, National Institute of Ayurveda, Jaipur
- (iii) Director, National Institute of Unani, Bangalore; and
- (iv) Director, National institute of Siddha, Chennai."

5.2 The Committee was given to understand that nomination of six ex-officio members will enable the Council to improve its functioning and quality of work pertaining to minimum educational standards, syllabus and curriculum etc. will receive the desired attention.

5.3 The Committee, however, observes that Section 3 (c) of the Principal Act already empowers the Govt. to nominate 30% of the total number of the members elected under clauses (a) and (b) of Section 3 (I) from amongst persons having special knowledge or practical experience in respect of Indian Medicine. The Committee feels that this provision is adequate and experts are getting due representation under this clause. The Committee, therefore, recommends that clause 3 proposing to insert clause (d) in Section 3 (1) of the Act may be deleted.

Clause 4

6.1 Clause 4 of the Bill seeks insertion of new Section 3A 'Reconstitution of Central Council' after Section 3 of Principal Act. As per this clause the existing Central Council shall stand dissolved with all the members vacating their office from the date of commencement of the Indian Medicine Central Council (Amendment) Act, 2005. A new Council will be reconstituted as soon as possible by the Central Govt. The new section also proposes appointment of a Board of Administrators. The

Committee was given to understand that this provision will help in expediting the electoral process for reconstituting the Central Council.

6.2The Committee takes note of very serious reservations expressed by not only the office bearers of the Central Council but also by some experts who appeared before it. The Committee is inclined to agree with their views that dissolution of a primarily elected body of professionals and experts cannot be considered democratic. The Committee has been given to understand that some of the members have been elected to the Council recently in accordance with the due process of elections. The Committee, therefore, recommends that the proposed section 3 A may be deleted.

Clause-5

7.1Clause 5 seeks to substitute Section 7 of the Principal Act which pertains to the term of President, Vice-President and members of the Central Council. As per the substituted provision, the President, Vice-President and members of the Central Council shall hold office for a fixed term of five years from the date of election/ nomination. This specific provision is further sought to be strengthened by making it binding for the Central Govt. to take necessary steps for reconstitution of a new Council at least three months before the expiry of the term of the Council.

7.2Explaining the logic behind the amendment clause, the Department has submitted that the Indian Medicine Central Council was last constituted in 1994-95 and accordingly term of all the members expired in 2000. However, it could not be reconstituted even after a lapse of more than four years as election process has been completed only in 11 out of 18 States that maintain the State Register of Indian Medicine. No urgency is shown to holding of elections because of the existing legal provisions which allow the sitting members to continue till the next elections are held. As elections are not held simultaneously in all the states, it has also become difficult to re-constitute the CCIM. Sometimes elections are delayed due to litigation and stay orders from court. The Committee was given to understand that restriction of five years on the term of members and office bearers would ensure timely election of Council.

7.3The Committee also feels that fixed term of five years for the members and office-bearers of the Council and withdrawing the option of continuing beyond their term by virtue of their successor not being elected or nominated would be the ideal position. The Committee is, however, not inclined to agree with the contention of the Department that fixed term of five years would ensure timely election of the Council. The Committee would like to emphasize that as per section 4 of the Principal Act, elections to the Council are to be conducted by the Central Govt. However the history of the Council since its constitution through nomination of members in 1971 clearly indicates that the Central Govt. has failed in its statutory duty. First elections to the Council could be conducted only in 1983-84, followed by next elections in 1994-95. The Committee finds that although tenure of all the members expired in 2000, electoral process has been completed only in 11 out of 18 states maintaining State Register.

7.4The Committee does not foresee any significant improvement inspite of Central Govt. being bound to take necessary steps for the reconstitution of a new Council at least three months before the expiry of the term of the Council. The Committee feels that the period of three months is not enough for the Central Govt. to complete the procedural formalities for reconstitution of the Central Council as indicated in the proviso to substituted section 7(1). The Committee also feels that involvement of the Council in the election process would expedite the same. The Committee, therefore, recommends that the Central Govt. in consultation with the Central Council should initiate the process of reconstitution of Central Council at least six months before the expiry of the term of the Council.

7.5Committee's attention has been drawn by sub-section (5) of section 7 of the Principal Act reproduced below:-

“ (5) where the said term of five years is about to expire in respect of any member, a successor may be elected or nominated at any time within three months before the said term expires but he shall not assume office until the said term has expired.”

7.6 The Committee feels that in view of proposed substitution of section 7(1) of the Act, the above provision has become redundant. The Committee, accordingly, recommends that the same may be deleted.

7.7 Section 7 (1) states that the term of office of President, Vice-President or member shall start from their date of election or nomination. Committee's attention was drawn towards another disturbing aspect about the election process of the Council. In case the notification of the election of a member gets delayed due to any reason, his term of office would effectively be reduced by the period of such delay. Therefore, in order to avoid this loss to the member, it was suggested that the term of member should start from the date of notification instead of election/ nomination.

7.8 The Committee agrees with the above submission and recommends that Section 7(1) should be amended accordingly.

7.9 Proposed Sub-Section (1A) of Section 7 of the Principal Act empowers the Central Government to appoint a Board of Administrators for a maximum of six months in case the Central Govt. is unable to reconstitute the Central Council within the specified time.

7.10 The Committee feels that the Central Council, which is a democratically elected body having eminent experts in their respective fields as its members cannot be substituted by the nominees of the Central Govt. for a temporary period of six months. The Committee would like to emphasize that with the proposed substitution of section 7 (1) providing a fixed term for members and committee's recommendation for starting the election process six months in advance, any eventuality of a Board of Administrators running the Council should not arise. The Committee would also add that Govt. should instead take all necessary measures for expediting the election process so as to ensure its completion within six months. The Committee therefore recommends that the sub-clause (1A) of the Bill may be deleted.

7.11 Sub-clause (b) of clause 5 of the Bill seeks to insert a proviso in sub-section (4) of section 7 of the Principal Act thereby restraining the members from serving more than two terms. The Department was of the view that only two terms should be allowed to a member of the Council. In contrast, the representatives of CCIM were of the view that the restriction on contesting elections for third time is undemocratic and violates the fundamental rights of people. Similar opinion was voiced by some of the experts who appeared before the Committee.

7.12 While upholding the democratic rights of the people, the Committee also feels that functioning of the Council should not be allowed to remain under the control of a selected few. The Committee, therefore, recommends that instead of two terms, a member should be allowed to hold office for three terms. Proviso may be amended accordingly.

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Clause- 6

8.1 Clause 6 of the Bill provides the mechanism for removal of President, Vice-President or any member of the Council by inserting Section 33A after Section 33 of the Principal Act. Sub-section (1) and (2) give the power to the Central Council to recommend to the Central Government for removal of the President, the Vice-President or any member on the grounds of misconduct or incapacity. Such a recommendation is to be based on 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. In the event of a President being removed, his powers and duties are to be performed by the Vice- President .

8.2 The Committee observes that this provision is required to be invoked in case of some irregularity or unwanted activity on the part of the President or the Vice-President or any member. The Committee, therefore, agrees to the proposed addition. The Committee, however, has reservations

about the provisions of sub-sections (3) and (4) whereunder powers and duties of Vice-President since removed are to be exercised and performed by a person to be appointed by the Central Govt. Period of three months is provided for election of the new President or Vice-President or any member. The Committee is of the opinion that the provision regarding Central Govt. having the powers to impose any outsider, although eligible to be a member of the Council, as the Vice-President will go against the Central Council, an elected body. The Committee, therefore, recommends that the Vice-President should be elected by the members from amongst themselves. The Committee also recommends that instead of three months, a period of one month would be adequate for election of new President or Vice-President or any member. Proposed sub-sections (3) and (4) of new sub-section 33A may, accordingly, be modified.

8.3 Clause 6 of the Bill proposes to insert Section 33 B in the Principal Act which provides for withdrawal and removal of nominated members of Central Council by the Central Government in public interest.

8.4 The Committee does not agree with the submission of the Department that there is a need for having a provision for withdrawal and removal of nominated members in case they commit some misconduct or unwanted activity. The Committee is of the opinion that such a provision will prove to be discriminatory for nominated members. The Committee also apprehends that members nominated by the Central Council may become pawns in the hands of the Central Government. The Committee would like to point out that under the proposed Section 33 A, Central Council would be having the power for removal of a member. Therefore, for the purpose of maintaining the independent status of the Council, the Committee recommends for the deletion of the above provision from the Bill.

8.5 Clause – 6 of the Bill provides for insertion of section 33 C in the Principal Act which provides that 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 Govt. In the event of any dispute arising between the Central Govt. and the Central Council as to whether a question relates to public interest or not, the decision of the Central Govt. thereon shall be final.

8.6 The Committee was given to understand that there have been instances of the Council exhibiting tendency to violate the legal/regulatory provisions and exceeding its powers. Proper directions need to be given to the Council by the Central Govt. for initiating any corrective course of action.

8.7 The Committee is of the opinion that making it obligatory for the Central Council to be guided by directions given in ‘ public interest ‘ by the Central Govt. may lead to undue interference in the working of the Council which is a duly elected body whose decisions are collective, based on majority of votes. The Committee observes that section 33 of Principal Act already provides for a Commission of Inquiry to be setup by the Central Govt. to probe any action of the Council contrary to the provisions of the Act. The Committee, therefore, recommends deletion of the proposed section 33 C.

8.8 Clause- 6 of the Bill provides for insertion of Section 33 D whereunder the Central Govt. will have the power to dissolve any committee of the Central Council in the event of its failure in performing its duties/ persistent default/ abuse of its powers etc. The Committee will be dissolved only after being given reasonable time for explanation. The Clause further stipulates that during the period of dissolution all the powers and duties of the committee shall be exercised and performed by such persons appointed by the Central Govt. for a maximum period of six months.

8.9 The Committee has been given to understand that the Principal Act is not having any provisions to check irregularities on the part of any of the committees. The amendment provides for action in an objective and transparent manner so that no bias can be attributed to passing of such orders. The

alternative arrangements after dissolution will be for a maximum period of six months only. The Committee is, however, not inclined to agree with the argument put forth by the Department.

8.10 The Committee would also like to point out that as per section 33(D (1) (b), any non-compliance of the directions sought to be given by the Central Govt. under Section 33 C either with or without sufficient cause by any Committee would justify its dissolution by the Central Govt. This Section also provides that the Central Govt. will have the power to dissolve any Committee if it fails to comply, either willfully or without sufficient cause any directions issued by the Central Council under Section 9 (3). The Committee strongly feels that an elected body cannot be dissolved by an Executive order. Further, imposition of persons in spite of them being from amongst the members of the Council as proposed under section 33 D (2) (b) will be clearly at the discretion of Central Govt. Thus for a period of six months, Central Govt. will be virtually running the Council. The Committee apprehends that instances may be there when Central Govt. may assume such powers more than once during the term of a Council. Thus, an atmosphere of confrontation may prevail which will be against the larger interests of all concerned. The Committee would also like to point out that Govt. nominees are already represented in the Council and various Committee under Section 3 (C) of the Principal Act. Not only this, there also exists a provision for setting up a Commission of Inquiry under section 33 whereby the Central Govt. has the powers to refer any case of non-compliance by the Council to a Commission of Inquiry for investigation and follow up action.

8.11 The Committee feels that the provision of Commission of Inquiry as mentioned in Section 33 is sufficient to check the misuse of power/ successive default by any committee of the Council and there is no further need to give the Government powers which are susceptible to be misused. The Committee, therefore, recommends for deletion of this provision from the Bill.

8.12 Clause 6 of the Bill provides for insertion of Section 33 (E) in the Principal Act. Section 33E seeks to empower the Central Govt. to remove the Chairman or the member of any Committee of the Central Council on the same grounds as envisaged in section 33D whereunder Central Govt. can dissolve any Committee.

8.13 Explaining the reason for introduction of the provision, the Department submitted that the provision for removal of the Chairman or members of any Committee has been made as a measure of caution and to dissuade the members of Committee from indulging in unethical and illegal acts. Adequate provisions have been proposed not to give scope for any arbitrary action by the Government, as evident from the amendment.

8.14 The Committee is of the view that the above provision gives unfettered powers to the Government, which can be used to interfere with the autonomous functioning of the Council. The Committee also notes that there already exists section 33 in the Principal Act which provides for the constitution of a Commission of Inquiry by the Central Govt. to enquire into the cases of alleged misconduct by the office bearers of the Council/ member of Committee. Besides that, with the proposed section 33A with amendments as suggested by the Committee, action can be taken by the Central Council based on a resolution passed by majority of membership of the Central Council.

8.15 The Committee, therefore, feels that there is no need to further insert section-33 (E) in the Principal Act, as proposed by the Bill and the same may be deleted.

Clause 9

9.1 Clause 9 of the Bill empowers the Central Govt. to issue directions for making or amending or revoking any regulation within a specified period by inserting section 37 in the Principal Act. Central Govt. may itself make/amend/revoke regulations in the event of non-compliance by the Central Council.

9.2 The Committee has been given to understand that such a provision was necessary to take care of an eventuality where Central Council was not agreeing to the suggestions made by the Central Govt. with regard to regulations. The Committee is, however, not convinced by the contention of the Department. The Committee would like to point out that under section 35 of the Principal Act, the Central Govt. is already empowered to make rules to carry out the purposes of the Act. Section 36 provides that the Central Council with the previous sanction of the Central Govt. may make regulations necessary for its functioning. The Committee fails to understand the justification for assumption of overriding powers by the Central Govt. as against the powers given to the Central Council, an elected body which will be making/amending/revoking regulations with the previous sanction of the Central Govt. The Committee, therefore recommends the deletion of section 37 sought to be incorporated in the Principal Act.

10. The Committee adopts the remaining clauses of the Bill, including enacting formula and the title without any amendment.

General Observations

11.1 Statement of Objects and Reasons to the Indian Medicine Central Council (Amendment) Bill, 2005 gives the impression that besides some inherent shortcomings in some provisions of the Principal Act, functioning of the Central Council also needs to be streamlined. Based on the feedback received by the Committee and also its interactions with a number of witnesses, the Committee has to make the following observations :

11.2 On a specific query about the efforts made by the Department to obtain the views of all Stake-holders on various provisions of the proposed legislation, the Committee has been informed that only an internal exercise had been taken by the Department. The Committee expresses its serious concern on non-adherence to a well-established convention of consultation with all the Stake-holders for bringing out any legislation or proposed amendments thereto. Clarification made by the Department that unwarranted action of the Council has resulted in the proposed legislation for amendment of the Act clearly indicates that this non-initiative was deliberate on the part of the Department.

11.3 The Committee notes that the election to the Central Council of Indian Medicine is conducted by the Central Govt. as per the provision of the relevant Rules. The Returning Officer is appointed by the Central Govt. on the recommendation of State Govt. The Voters List is to be provided by the Registrar, State Board/Council. Non-appointment of Returning Officer, frequent change of Returning Officers by State Govts. due to retirement/transfer/death of incumbents, non-provision of updated State Registers by State Registrars, Court cases, difficulty in determination of seats etc. are some of the constraints being faced by the Central Govt. in the conduct of elections to both the Councils.

11.4 The Committee observes that the election process for the Central Council is a prolonged affair, depending upon timely appointment of Returning Officers and availability of Updated Registers. The Committee fails to understand in what manner, Central Govt. would manage and expedite the election process of the Central Council under the existing provisions. The Committee is of the view that there is an urgent need for review of the existing system, specially in view of the present circumstances. Proposed amendments to the Act governing the functioning of the Central Council will neither result in timely appointment of Returning Officers nor in timely updating of State Registers. The Committee feels that there is an urgent need for review of the existing procedure for election to the Central Council and taking required steps for streamlining the same. The Committee, accordingly, recommends that the Central Govt. in consultation with the Central Council and experts may initiate action.

11.5 The Committee observes that under the present setup, State Boards/Councils are not controlled by the Central Council. They are also not accountable to Central Govt. As a result, by and large, State Councils are not adhering to the prescribed norms for updating of State Registers, essential for holding elections to the Councils. Non-submission of consolidated list of practitioners, non-removal of names of expired practitioners, submission of incomplete lists with regard to State

Registers are some of the shortcomings brought to the notice of the Committee. State Councils are also defaulting in the proper and timely appointment of Returning Officers. The Committee apprehends that after enacting the present legislation, there would not be any significant improvement. The Committee is of the firm opinion that a mechanism has to be evolved where under Central Council and State councils work in coordination, complementing the functioning of each other and the State Councils should function under the former. The Committee, therefore, recommends that the Department should work out a legally and practically viable set up for the purpose.

11.6 Statement of Objects and Reasons for the Bill mentions that sometimes elections are delayed due to litigation and stay orders from the court. The Committee, however, observes that as per details of 106 pending Court cases in respect of CCIM by the Department itself, no case is regarding election matters. Generally cases pertain to matters regarding opening of new colleges, increase in seat intake capacity, service matters etc. Thus, the Committee is not inclined to accept the contention of the Department that due to litigation and stay orders by Court, elections to Councils may get delayed.

OBSERVATION/RECOMMENDATIONS AT A GLANCE

The Committee feels that the definition should also specify the category of member-whether elected or nominated. The Committee, accordingly recommends that the following definition of “member” may be inserted after clause (f) in section 2(1) of the Principal Act -

‘(fa) “Member” means any member of the Central Council, elected or nominated and includes President or Vice-President.’

The Committee notes that as provided in section 9 of the Principal Act, there are three Committees for Ayurveda, Siddha and Unani and Vice- President for each system of Indian Medicine shall be the Chairman of each Committee. The Committee feels that the definition of Vice-President should be specific and accordingly recommends the following definition :-

‘(l) “Vice-President” means a Vice-President of the Central Council who are also Chairman of Ayurveda, Unani and Siddha Committee respectively.’

The Committee, however, observes that Section 3 (c) of the Principal Act already empowers the Govt. to nominate 30% of the total number of the members elected under clauses (a) and (b) of Section 3 (I) from amongst persons having special knowledge or practical experience in respect of Indian Medicine. The Committee feels that this provision is adequate and experts are getting due representation under this clause. The Committee, therefore, recommends that clause 3 proposing to insert clause (d) in Section 3 (1) of the Act may be deleted.

The Committee takes note of very serious reservations expressed by not only the office bearers of the Central Council but also by some experts who appeared before it. The Committee is inclined to agree with their views that dissolution of a primarily elected body of professionals and experts cannot be considered democratic. The Committee has been given to understand that some of the members have been elected to the Council recently in accordance with the due process of elections. The Committee, therefore, recommends that the proposed section 3 A may be deleted.

The Committee also feels that fixed term of five years for the members and office-bearers of the Council and withdrawing the option of continuing beyond their term by virtue of their successor not being elected or nominated would be the ideal position. The Committee is, however, not inclined to agree with the contention of the Department that fixed term of five years would ensure timely election of the Council. The Committee would like to emphasize that as per section 4 of the Principal

Act, elections to the Council are to be conducted by the Central Govt. However the history of the Council since its constitution through nomination of members in 1971 clearly indicates that the Central Govt. has failed in its statutory duty. First elections to the Council could be conducted only in 1983-84, followed by next elections in 1994-95. The Committee finds that although tenure of all the members expired in 2000, electoral process has been completed only in 11 out of 18 states maintaining State Register.

The Committee does not foresee any significant improvement inspite of Central Govt. being bound to take necessary steps for the reconstitution of a new Council at least three months before the expiry of the term of the Council. The Committee feels that the period of three months is not enough for the Central Govt. to complete the procedural formalities for reconstitution of the Central Council as indicated in the proviso to substituted section 7(1). The Committee also feels that involvement of the Council in the election process would expedite the same. The Committee, therefore, recommends that the Central Govt. in consultation with the Central Council should initiate the process of reconstitution of Central Council at least six months before the expiry of the term of the Council.

The Committee feels that in view of proposed substitution of section 7(1) of the Act, the above provision has become redundant. The Committee, accordingly, recommends that the same may be deleted.

The Committee agrees with the above submission and recommends that Section 7(1) should be amended accordingly.

The Committee feels that the Central Council, which is a democratically elected body having eminent experts in their respective fields as its members cannot be substituted by the nominees of the Central Govt. for a temporary period of six months. The Committee would like to emphasize that with the proposed substitution of section 7 (1) providing a fixed term for members and committee's recommendation for starting the election process six months in advance, any eventuality of a Board of Administrators running the Council should not arise. The Committee would also add that Govt. should instead take all necessary measures for expediting the election process so as to ensure its completion within six months. The Committee therefore recommends that the sub-clause (1A) of the Bill may be deleted.

While upholding the democratic rights of the people, the Committee also feels that functioning of the Council should not be allowed to remain under the control of a selected few. The Committee, therefore, recommends that instead of two terms, a member should be allowed to hold office for three terms. Proviso may be amended accordingly.

The Committee observes that this provision is required to be invoked in case of some irregularity or unwanted activity on the part of the President or the Vice-President or any member. The Committee, therefore, agrees to the proposed addition. The Committee, however, has reservations about the provisions of sub-sections (3) and (4) whereunder powers and duties of Vice-President since removed are to be exercised and performed by a person to be appointed by the Central Govt. Period of three months is provided for election of the new President or Vice-President or any member. The Committee is of the opinion that the provision regarding Central Govt. having the powers to impose any outsider, although eligible to be a member of the Council, as the Vice-President will go against the Central Council, an elected body. The Committee, therefore, recommends that the Vice-President should be elected by the members from amongst themselves. The Committee also recommends that instead of three months, a period of one month would be adequate for election of new President or Vice-President or any member. Proposed sub-sections (3) and (4) of new sub-section 33A may, accordingly, be modified.

The Committee does not agree with the submission of the Department that there is a need for having a provision for withdrawal and removal of nominated members in case they commit some

misconduct or unwanted activity. The Committee is of the opinion that such a provision will prove to be discriminatory for nominated members. The Committee also apprehends that members nominated by the Central Council may become pawns in the hands of the Central Government. The Committee would like to point out that under the proposed Section 33 A, Central Council would be having the power for removal of a member. Therefore, for the purpose of maintaining the independent status of the Council, the Committee recommends for the deletion of the above provision from the Bill.

The Committee is of the opinion that making it obligatory for the Central Council to be guided by directions given in ‘ public interest ‘ by the Central Govt. may lead to undue interference in the working of the Council which is a duly elected body whose decisions are collective, based on majority of votes. The Committee observes that section 33 of Principal Act already provides for a Commission of Inquiry to be setup by the Central Govt. to probe any action of the Council contrary to the provisions of the Act. The Committee, therefore, recommends deletion of the proposed section 33 C.

The Committee strongly feels that an elected body cannot be dissolved by an Executive order. Further, imposition of persons in spite of them being from amongst the members of the Council as proposed under section 33 D (2) (b) will be clearly at the discretion of Central Govt. Thus for a period of six months, Central Govt. will be virtually running the Council. The Committee apprehends that instances may be there when Central Govt. may assume such powers more than once during the term of a Council. Thus, an atmosphere of confrontation may prevail which will be against the larger interests of all concerned. The Committee would also like to point out that Govt. nominees are already represented in the Council and various Committee under Section 3 (C) of the Principal Act. Not only this, there also exists a provision for setting up a Commission of Inquiry under section 33 whereby the Central Govt. has the powers to refer any case of non-compliance by the Council to a Commission of Inquiry for investigation and follow up action.

The Committee feels that the provision of Commission of Inquiry as mentioned in Section 33 is sufficient to check the misuse of power/ successive default by any committee of the Council and there is no further need to give the Government powers which are susceptible to be misused. The Committee, therefore, recommends for deletion of this provision from the Bill.

The Committee is of the view that the above provision gives unfettered powers to the Government, which can be used to interfere with the autonomous functioning of the Council. The Committee also notes that there already exists section 33 in the Principal Act which provides for the constitution of a Commission of Inquiry by the Central Govt. to enquire into the cases of alleged misconduct by the office bearers of the Council/ member of Committee. Besides that, with the proposed section 33A with amendments as suggested by the Committee, action can be taken by the Central Council based on a resolution passed by majority of membership of the Central Council.

The Committee, therefore, feels that there is no need to further insert section-33 (E) in the Principal Act, as proposed by the Bill and the same may be deleted.

The Committee fails to understand the justification for assumption of overriding powers by the Central Govt. as against the powers given to the Central Council, an elected body which will be making/amending/revoking regulations with the previous sanction of the Central Govt. The Committee, therefore recommends the deletion of section 37 sought to be incorporated in the Principal Act.

The Committee adopts the remaining clauses of the Bill, including enacting formula and the title without any amendment.

General Observations

The Committee expresses its serious concern on non-adherence to a well-established convention of consultation with all the Stake-holders for bringing out any legislation or proposed amendments thereto. Clarification made by the Department that unwarranted action of the Council

has resulted in the proposed legislation for amendment of the Act clearly indicates that this non-initiative was deliberate on the part of the Department.

The Committee notes that the election to the Central Council of Indian Medicine is conducted by the Central Govt. as per the provision of the relevant Rules. The Returning Officer is appointed by the Central Govt. on the recommendation of State Govt. The Voters List is to be provided by the Registrar, State Board/Council. Non-appointment of Returning Officer, frequent change of Returning Officers by State Govts. due to retirement/transfer/death of incumbents, non-provision of updated State Registers by State Registrars, Court cases, difficulty in determination of seats etc. are some of the constraints being faced by the Central Govt. in the conduct of elections to both the Councils.

The Committee observes that the election process for the Central Council is a prolonged affair, depending upon timely appointment of Returning Officers and availability of Updated Registers. The Committee fails to understand in what manner, Central Govt. would manage and expedite the election process of the Central Council under the existing provisions. The Committee is of the view that there is an urgent need for review of the existing system, specially in view of the present circumstances. Proposed amendments to the Act governing the functioning of the Central Council will neither result in timely appointment of Returning Officers nor in timely updating of State Registers. The Committee feels that there is an urgent need for review of the existing procedure for election to the Central Council and taking required steps for streamlining the same. The Committee, accordingly, recommends that the Central Govt. in consultation with the Central Council and experts may initiate action.

The Committee observes that under the present setup, State Boards/Councils are not controlled by the Central Council. They are also not accountable to Central Govt. As a result, by and large, State Councils are not adhering to the prescribed norms for updating of State Registers, essential for holding elections to the Councils. Non-submission of consolidated list of practitioners, non-removal of names of expired practitioners, submission of incomplete lists with regard to State Registers are some of the shortcomings brought to the notice of the Committee. State Councils are also defaulting in the proper and timely appointment of Returning Officers. The Committee apprehends that after enacting the present legislation, there would not be any significant improvement. The Committee is of the firm opinion that a mechanism has to be evolved where under Central Council and State councils work in coordination, complementing the functioning of each other and the State Councils should function under the former. The Committee, therefore, recommends that the Department should work out a legally and practically viable set up for the purpose.

The Committee, however, observes that as per details of 106 pending Court cases in respect of CCIM by the Department itself, no case is regarding election matters. Generally cases pertain to matters regarding opening of new colleges, increase in seat intake capacity, service matters etc. Thus, the Committee is not inclined to accept the contention of the Department that due to litigation and stay orders by Court, elections to Councils may get delayed.

LIST OF WITNESSES WHO APPEARED BEFORE THE COMMITTEE

SL NO. NAME OF WITNESS (ES)

Date of Hearing- 12th May, 2005

Secretary, Department of AYUSH

Date of Hearing- 25th May, 2005

2. Vaidya Shriram Sharma, President, Central Council of Indian Medicine (CCIM).
3. Vaidya Devendra Kumar Triguna, Vice- President (Ayurved), CCIM.
4. Dr. V. Arunachalam, Vice-President (Siddha), CCIM.
5. Prof. V.K. Joshi, Department of Dravyaguna, Banaras Hindu University, Varanasi.
6. Dr. Sijoria, Reader, Ayurveda & Unani Tibbi College, Delhi.

7. Dr. Tasleem A. Rehmani, Al-Rifa Hospital, Delhi.

Date of Hearing- 26th May, 2005

8. Dr. B.L. Gaur, Director, National Institute of Ayurveda, Jaipur.

MINUTES

**RECORD OF PROCEEDINGS OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HEALTH & FAMILY WELFARE**

The Committee met at 4.00 *p.m.* on Thursday, the 12th May, 2005 in Committee Room 'A' Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

Shri Amar Singh — *Chairman*

LOK SABHA

Shri D.K. Adikesavulu
Dr. M. Baburao
Dr. R.C. Dome
Smt. K. Rani
Dr. Karan Singh Yadav

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri P.R. Guha Roy, Director
Shri Momraj Singh, Under Secretary
Shri S.C. Dixit, Committee Officer

REPRESENTATIVES OF THE DEPARTMENT OF AYUSH

| | | |
|----|-----------------|------------------|
| 1. | Smt. Uma Pillai | Secretary |
| 2. | Shri Tara Dutt | Joint Secretary |

2. At the outset, the Chairman welcomed the members of the Committee. The Secretary, Department of AYUSH then gave a presentation on the Indian Medicine Central Council (Amendment) Bill-2005 and the Homoeopathy Central Council (Amendment) Bill-2005. The members raised certain issues in respect of both the Bills.

2A. Verbatim record of proceeding of the meeting is kept.

3. The Committee then decided to hear the views of "experts" on both the Bills at its next meeting scheduled on 24th May, 2005.

4. The meeting then adjourned at 5.30 *p.m.* to meet again at 11.00 *a.m.* on the 24th May, 2005.

NEW DELHI

12th May, 2005

(MOMRAJ SINGH)

UNDER SECRETARY

**MINUTES OF THE MEETING OF DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HEALTH & FAMILY WELFARE**

XIV

FOURTEENTH MEETING

The Committee met at 11.00 *a.m.* on Wednesday, the 25th May, 2005 in Room 63, First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

Shri Amar Singh — *Chairman*
Dr. A.K. Patel
Smt. Maya Singh

LOK SABHA

Shri D.K. Adikesavulu
Smt. B. Sushila Devi Laxman
Dr. M. Baburao
Dr. R.C. Dome
Smt. Maneka Gandhi
Shri S. Mallikarjunaiah
Dr. Chinta Mohan
Shri D.B. Patil
Dr. Arvind Kumar Sharma
Shri Uday Singh
Dr. Karan Singh Yadav

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri P.R. Guha Roy, Director
Shri Mom Raj Singh, Under Secretary
Shri S.C. Dixit, Committee Officer

WITNESSES

A. Representatives of The Central Council of Indian Medicine

| | |
|----------------------------------|--------------------------------|
| 1. Vaidya Shriram Sharma | President, CCIM |
| 2. Vaidya Devendra Kumar Triguna | Vice-President (Ayurved), CCIM |
| 3. Dr. V. Arunachalam | Vice-President (Siddha), CCIM |

B. Experts on Indian System of Medicine

| | |
|---------------------------|--|
| 1. Prof. V.K. Joshi | Deptt. Of Dravyaguna, Banaras Hindu University, Varanasi. |
| 2. Dr. Sijoria | Reader, Ayurveda & Unani Tibbi College, Delhi. |
| 3. Dr. Tasleem A. Rehmani | Al-Rifa Hospital, Delhi. |

2. At the outset Chairman informed that the Drugs and Cosmetics (Amendment) Bill, 2005 has been referred to the Committee for examination and report and directed that a press release may be

issued for inviting suggestions on the Bill.

3. The Committee then heard the views of the President/Vice-President of Central Council of Indian Medicine and “experts” on Indian System of Medicine on the Indian Medicine Central Council (Amendment) Bill 2005. The Members raised certain queries which the witnesses replied.

4. During the course of the proceedings, the Chairman informed the Committee about the sad demise of Shri Sunil Dutt, Minister of Youth Affairs and Sports. The Committee observed two minutes silence in the honour of the departed soul.

4A. A verbatim record of the proceedings was kept.

6. The Committee then adjourned at 12:30 *p.m.*

NEW DELHI

25th May, 2005

MOMRAJ SINGH UNDER
SECRETARY

**MINUTES OF THE MEETING OF DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HEALTH & FAMILY WELFARE
XV
FIFTEENTH MEETING**

The Committee met at 11.00 *a.m.* on Thursday, the 26th May, 2005 in Room 63, First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

Shri Amar Singh — *Chairman*
Shrimati Sukhbuns Kaur
Dr. A.K. Patel
Smt. Maya Singh
Shri Lalming Liana

LOK SABHA

6. Shri D.K. Adikesavulu
7. Smt. B. Sushila Devi Laxman
8. Dr. M. Baburao
9. Dr. R.C. Dome
10. Smt. Maneka Gandhi
11. Shri S. Mallikarjunaiah
12. Dr. Arvind Kumar Sharma
13. Shri Uday Singh
14. Smt. V. Radhika Selvi
15. Shri Kailash Nath Singh Yadav
16. Dr. Karan Singh Yadav

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri P.R. Guha Roy, Director
Shri Mom Raj Singh, Under Secretary
Shri S.C. Dixit, Committee Officer

WITNESSES

A. Representatives of The Central Council of Homoeopathy

1. Dr. S.P.S. Bakshi President, Central Council of Homoeopathy (CCH).
2. Dr. Ramjee Singh Vice-President, (CCH).
3. Dr. M.R. Srivatsan Executive Members, (CCH).
4. Dr. J.S. Khanna Ex-President, the Homoeopathy Medical Association of India.
5. Dr. Veerabramhachary President, Karnataka Homoeopathy Board, (Govt. of Karnataka).
6. Dr. Arun Bhasme Secretary General, National Federation of Homoeopathy Colleges in India.

B. Expert on Indian System of Medicine

Dr. B.L. Gaur Director, National Institute of Ayurveda, Jaipur.

C. Experts on Homoeopathy

1. Dr. Diwan Harish Chand Chairman (Ex-President, CCH)
Scientific Advisory Committee, Central Council for Research in
Homoeopathy, New Delhi.
2. Dr. V.K. Khanna MD (Homoeopathy), Principal, Nehru Homoeopathy Medical
College & Hospital, New Delhi.
3. Dr. S.K. Bhattacharya, Director, National Institute of Homoeopathy,
Kolkata.
4. Dr. Mahendra Singh, Secretary-General, Indian Homoeopathic Teachers
Association, Kolkata.

2. The Committee heard the views of the President/Vice-President of Central Council of Homoeopathy and “experts” on the Homoeopathy Central Council (Amendment) Bill 2005. The Committee also heard the views of Director, National Institute of Ayurveda, Jaipur on the Indian Medicine Central Council (Amendment) Bill, 2005. The Members raised certain queries which the witnesses replied.

2A. A verbatim record of the proceedings was kept.

3. The Committee decided to hold its next meeting on 28th June, 2005. The Committee then adjourned at 1:00 *p.m.* to meet again at 3.00 *p.m.* on Tuesday, 28th June, 2005.

NEW DELHI

26th May, 2005

MOM RAJ SINGH UNDER

SECRETARY

MINUTES OF THE MEETING OF DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON HEALTH & FAMILY WELFARE

XVI

SIXTEENTH MEETING

The Committee met at 3.00 *p.m.* on Friday, the 1st July, 2005 in Committee Room “A” Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

Shri Amar Singh — *Chairman*
Shrimati Sukhbans Kaur
Dr. A.K. Patel

LOK SABHA

Shri D.K. Audikesavulu
Smt. B. Sushila Devi Laxman
Dr. M. Baburao
Smt. Maneka Gandhi

Shri S. Mallikarjunaiah
 Dr. Chinta Mohan
 Shri Rajendra Kumar
 Shri Uday Singh
 Smt. V. Radhika Selvi

SECRETARIAT

Smt Vandana Garg, Joint Secretary
 Shri P.R. Guha Roy, Director
 Shri Mom Raj Singh, Under Secretary
 Shri S.C. Dixit, Committee Officer

2. At the outset, the Chairman welcomed the members of the Committee and took-up for consideration both the Homoeopathy Central Council (Amendment) Bill-2005, and the Indian Medicine Central Council (Amendment) Bill, 2005 clause-by-clause. The observations of the Committee with regard to the changes proposed in the Homoeopathy Central Council (Amendment) Bill, 2005 are as follows:

Clause -1

2.1 The Committee considered the provisions of the clause (1) and adopted the same as it is. Clause 1 was adopted without any change.

Clause -2

2.2 (i) The Committee considered insertion of Sub-clause (i), after clause (d) in Sub-Section-I of Section 2 of Principal Act regarding the definition of Homoeopathy Medical College but after discussion decided the definition of Homoeopathy Medical College may be substituted with the following definition.

‘(da) “Homeopathic Medical College” means a college of Homoeopathy, whether known as such or by any other name affiliated to a University, in which a person may undergo a course of study or training including any postgraduate course of study or training which will qualify him for the award of a recognized medical qualification.’

The Committee adopted the Sub Clause (i) as amended.

(ii) Sub-clause (ii) after clause (e) in Sub Section-I, the Committee considered the definition of the term “Member” and after discussion decided to insert the words ‘elected and nominated’ after the word “Central Council” (in line 2) in the definition of the “member”

The Committee adopted the Sub Clause (ii) as amended.

(iii) The Committee agreed to the definition of the term “President” as given in the sub-clause (iii) of the Bill.

The Committee adopted the Sub Clause (iii) without any change.

(iv) The Committee agreed to the definition of the term “Vice-President” as given in sub-clause (iv) of the Bill.

The Committee adopted the Sub Clause (iv) without any change.

Clause-3

2.3 The Committee considered the provisions of clause 3 of the Bill and after extensive discussion decided that Clause –3 of the Bill proposing to insert Clause (d) after Clause (C) in Section 3 (I) of the Principal Act may be deleted. The Committee did not agree to insert Clause 3 of the Bill.

Clause 3 was not adopted.

Clause-4

2.4 The Committee considered the insertion of new Section 3 A 'Reconstitution of Central Council' after Section 3 of the Principal Act. The new clause also propose the appointment of Board of Administrator. The Committee after extensive discussion decided not to insert the new Section 3 A of the Bill and it may be deleted.

Clause 4 was not adopted.

Clause-5

2.5 (i) The Committee considered the substitution for Sub-Section 1 of Section 7 of the Principal Act and decided that the Central Government in consultation with the Central Council should initiate the process of reconstitution of the Central Council at least 6 months before the expiry of the term of the Council. The Committee's attention was also drawn regarding Sub Section 6 of Section 7 (i) of the Act would become redundant hence it should be deleted. It was also felt that election/nomination should be notified without any delay. It would be appropriate, if the term of the member starts from the date of notification of his election/nomination. So this provision may be amended accordingly.

(ii) The Committee also considered the proviso contained in Sub Section (1A) in Section 7 of the Principal Act and did not agree with the provision and decided that it may be deleted.

(iii) The Committee considered the part b of clause of the Bill and decided that instead of two terms a Member should be allowed to hold office for three terms.

Clause 5 as amended was adopted.

Clause-6

2.6 The Committee considered the insertion of new Section 12C after Section 12 B of the Principal Act under Clause (6) of the Bill and decided to insert as a whole except one substitution, i.e., the word "three was substituted with the word "one"

Clause 6 as amended was adopted.

Clause-7

2.7 (a) The Committee then considered the insertion of new section 30 A in the Principal Act. The Committee after extensive discussion, decided to insert the sub-clause (1) and (2) in toto. The Sub Clause (3) and (4) was amended slightly by the Committee.

(a)(i) The Committee decided for substitution of the words "who is otherwise eligible to become the member of the Central Council as the Central Government may appoint in that behalf" with the words "who is elected by the member from amongst themselves"

(ii) The Committee decided to substitute the word "three" with the word "one".

(b) The Committee did not agree with the provisions to be insertion under Sections -30 B,30 C, 30D& 30E of the Principal Act as proposed in the Bill and decided to delete the same.

Sub-clause was deleted.

Clause-8 & 9

The Committee discussed the position contained in Clause 8 & 9 of Bill regarding Sub Section 1 the "brackets and figures" "(1)" and Sub Section 2 in Section 32 and 33 of the Principal Act and decided that the same should be adopted.

The Clause 8 and 9 were adopted without any change.

Clause-10

2.8 (i) The Committee considered the insertion of new Section 34 and 35 after section 33 of the Principal Act regarding power of Central Government to issue directions for making or amending

regulations and laying of rules and regulations respectively. The Committee decided to delete the provisions contained in Section 34 as the Central Government is already empowered to make rules to carry out the purposes of the Act. The Committee decided to delete the same.

Section 34 was not adopted.

General Observations

2.9 Statement of objects and Reasons to the Homeopathy Central Council (Amendment) Bill, 2005 gives the impression that besides some inherent shortcomings in some provisions of the Principal Act, functioning of the Central Council also needs to be streamlined. Based on the feedback received by the committee and also its interactions with a number of witnesses, the Committee has to make the following observations.

(i) On a specific query about the efforts made by the Department to obtain the views of all Stakeholders on various provisions of the proposed legislation, the Committee has been informed that only an internal exercise had been taken by the Department. The Committee expresses its serious concern on non-adherence to a well-established convention of consultation with all the Stakeholders for bringing out any legislation or proposed amendments thereto. Clarification made by the Department that unwarranted action of the Council has resulted in the proposed legislation for amendment of the Act clearly indicates that this non-initiative was deliberate on the part of the Department.

(ii) The Committee noted that the election to the Homoeopathy Central Council is conducted by the Central Govt. as per the provision of the relevant Rules. The Returning Officer is appointed by the Central Govt. on the recommendation of State Govt. The Voters List is to be provided by the Registrar, State Board/Council. Non-appointment of Returning Officer, frequent change of Returning Officers by State Govts. due to retirement/transfer/death of incumbents, non-provision of updated State Registers by State Registrars, Court cases, difficulty in determination of seats etc. are some of the constraints being faced by the Central Govt. in the conduct of elections to both the Councils.

The Committee observed that the election process for the Central Council is a prolonged affair, depending upon timely appointment of Returning Officers and availability of Updated Registers. The Committee fails to understand in what manner, Central Govt. would manage and expedite the election process of the Central Council under the existing provisions. The Committee was of the view that there is an urgent need for review of the existing system, specially in view of the present circumstances. Proposed amendments to the Act governing the functioning of the Central Council will neither result in timely appointment of Returning Officers nor in timely updating of State Registers. The Committee felt that there is an urgent need for review of the existing procedure for election to the Central Council and taking required steps for streamlining the same. The Committee, accordingly, recommended that the Central Govt. in consultation with the Central Council and experts may initiate action.

(iii) The Committee observed that under the present setup, State Boards/Councils are not controlled by the Central Council. They are also not accountable to Central Govt. As a result, by and large, State Councils are not adhering to the prescribed norms for updating of State Registers, essential for holding elections to the Councils. Non-submission of consolidated list of practitioners, non-removal of names of expired practitioners, submission of incomplete lists with regard to State Registers are some of the shortcomings brought to the notice of the Committee. State Councils are also defaulting in the proper and timely appointment of Returning Officers. The Committee apprehended that after enacting the present legislation, there would not be any significant improvement. The Committee is of the firm opinion that a mechanism has to be evolved where under Central Council and State councils work in coordination, complementing the functioning of each other and the State Councils

should function under the former. The Committee, therefore, recommended that the Department should work out a legally and practically viable set up for the purpose.

(iv) The Committee was informed by the Department that on a complaint made by MPs, a Commission of Inquiry was set up to look into the allegations against the office-bearers of CCH on the 12th January, 2004. The Commission was to give its Report within four months. The Commission has completed its hearings and examination of witnesses and is expected to give its Report shortly.

During the course of interaction with the office-bearers of CCH on the 26th May, 2005, the President of CCH categorically mentioned that the Commission of Inquiry was wound up on the 28th February, 2005 itself. The Committee observes that the Report of the Commission of Inquiry was already one year overdue. The Committee is disturbed to note the discrepancy between the information given by the office-bearers of CCH and the Department. The Committee would like to have the factual position about the status of the Commission of Inquiry.

(v) Statement of Objects and Reasons for the Bill mentions that sometimes elections are delayed due to litigation and stay orders from the court. The Committee, however, observed that, in respect of CCH, out of 76 pending cases, only two cases relate to election matters. Generally cases pertain to matters regarding opening of new colleges, increase in seat intake capacity, service matters etc. Thus, the Committee was not inclined to accept the contention of the Department that due to litigation and stay orders by Court, elections to the Council get delayed.

3. The Committee took-up for consideration the Indian Medicine Central Council (Amendment) Bill 2005 clause-by-clause. Provisions of both the Bills being similar, therefore decided that amendments as suggested in the case of Homoeopathy Central Council (Amendment) Bill, 2005 may be made applicable with respect to Indian Medicine Central Council (Amendment) Bill, 2005 also.

4. The Committee then adjourned at 4:30 *p.m.* to meet again at 3.00 *p.m.* on the 14th July, 2005.

NEW DELHI

1st July, 2005

MOM RAJ SINGH
UNDERSECRETARY

**MINUTES OF THE MEETING OF DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HEALTH & FAMILY WELFARE**

XVII

SEVENTEENTH MEETING

The Committee met at 3.00 *p.m.* on Thursday, the 14th July, 2005 in Room No. 63 First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

Shri Amar Singh — *Chairman*
Shrimati Sukhbuns Kaur
Dr. A.K. Patel
Shrimati Maya Singh

LOK SABHA

Shri D.K. Adikesavulu
 Smt. B. Sushila Devi Laxman
 Dr. M. Baburao
 Dr. R.C. Dome
 Shri S. Mallikarjunaiah
 Md. Shahabuddin
 Dr. Arvind Kumar Sharma
 Shri Uday Singh
 Smt. V. Radhika Selvi
 Shri Kailash Nath Singh Yadav
 Dr. Karan Singh Yadav

SECRETARIAT

Smt Vandana Garg, Joint Secretary
 Shri P.R. Guha Roy, Director
 Shri Mom Raj Singh, Under Secretary
 Shri S.C. Dixit, Committee Officer

REPRESENTATIVES OF THE DEPARTMENT OF HEALTH

| | |
|--------------------------|--|
| 1. Shri S.Y. Quraishi | Special Secretary & D.G. (NACO) |
| 2. Dr. S.P. Agarwal | Director General (Health Service) |
| 3. Dr. Ashwani Kumar | Drug Controller General of India |
| 4. Smt. Rita Teotia | Joint Secretary |
| 5. Shri Rajesh Bhushan | Director |
| 6. Dr. N.S. Dharamshakhu | Addl. Project Director (NACO) |

2. At the outset, the Chairman welcomed the members of the Committee. The Special Secretary, Department of Health then gave a brief presentation on the Drugs and Cosmetics (Amendment) Bill-2005. The members raised certain issues in respect of the Bill to which the Spl. Secretary assured to submit written reply later.

3. The Committee then took up for consideration the Tenth and Eleventh Draft Reports of the Committee on the Homoeopathy Central Council (Amendment) Bill-2005 and the Indian Medicine Central Council (Amendment) Bill-2005 respectively. The Committee adopted both the Draft Reports without any change.

4. The Committee decided that the Reports may be presented to the Rajya Sabha and laid on the Table of the Lok Sabha in the ensuing Monsoon Session of the Parliament. The Committee authorized the Chairman and in his absence Smt. Maya Singh to present the Reports in the Rajya Sabha and Shri Uday Singh and in his absence Shri R.C. Dome for laying the Reports on the Table of Lok Sabha.

4A. A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 4:00 *p.m.*

NEW DELHI

14th July, 2005

MOM RAJ SINGH
 UNDERSECRETARY

