

The Punjab Ayurvedic and Unani Practitioners Act, 1963
Punjab Act No. 42 of 1963

h1038

Received the assent of the President of India on 29th November, 1963, and first published for general information in the Punjab Government, Gazette (Extraordinary), Legislative Supplement, of the 13th December, 1963.

LEGISLATIVE HISTORY 6

- Amended by Punjab Act 25 of 1964.
- Amended by Punjab Act 15 of 1965.
- Amended by Haryana Act 18 of 1969.
- Amended by Haryana Act 26 of 1970.
- Amended by Haryana Act 12 of 1971.
- Amended by Haryana Act 10 of 1972.
- Amended by Haryana Act 14 of 1981.
- Amended by Haryana Act 5 of 1983.
- Amended by Haryana Act 21 of 1984.
- Amended by Haryana Act 27 of 1986.
- Amended by Haryana Act 16 of 1989.
- Amended by Haryana Act 8 of 1992.
- Amended by Haryana Act 5 of 1994.
- Amended by Haryana Act 8 of 1996.
- Amended by Haryana Act 13 of 1999.
- Amended by Haryana Act 6 of 2000.

An Act to consolidate and amend the law relating to the registration of Practitioners of Ayurvedic and Unani Systems of Medicine and to regulate the practice in such systems.

Be it enacted by the Legislature of the State of Punjab in the Fourteenth Year of the Republic of India as follows :-

CHAPTER I

Preliminary

- 1. Short title, extent and commencement.** - (1) This Act may be called the Punjab Ayurvedic and Unani Practitioners Act, 1963.
(2) It extends to the whole of the State of [Haryana]
(3) It shall come into force on such date as the State Government may by notification appoint.

Object & Reasons6

Statement of Objects and Reasons. - This Bill seeks to unify the East Punjab Ayurvedic and Unani Practitioners Act, 1949, and the Pepsu Ayurvedic and Unani Practitioners Act 2008 Bk., which are at present prevalent in the erstwhile areas of Punjab and Pepsu

2. The relevant provisions of these Acts, relating to the holding of qualifying examination have been excluded from the unified Bill which has only been confined to the regulation of the registration of practitioners in the Ayurvedic and Unani Systems of Medicine and their practice. The Bill regarding the holding of qualifying examination by creating a separate Faculty for the purpose is under the active consideration of the Government and will be brought for the separately as early as possible.

Punjab Government Gazette (Extraordinary), dated 27th February, 1963, page 264.

2. Definitions. - In this Act, unless the context otherwise requires, -

(a) "Ayurvedic System" means the Ashtang Ayurvedic System and the Siddha, and includes the modernised form thereof;

(b) ["Board" means the Board of Ayurvedic and Unani Systems of Medicine, Haryana], established and constituted, or deemed to be established and constituted, under section 3;

[(c) "Director" includes the Director of Ayurveda, Haryana, and includes the Deputy Director of Ayurveda, Haryana, the Assistant Director of Ayurveda, Haryana, and such other officer as the State Government may appoint for exercising all or any of the functions of the Director under this Act and the rules made thereunder;]

[(d) "Faculty" means the Punjab State Faculty as defined in clause (b) of section 2 of the Punjab State Faculty of Ayurvedic and Unani Systems of Medicine Act, 1963;]

(e) "member" means a member of the Board, and includes the Chairman and Vice-Chairman;

(f) "practitioner" means a person who practises the Ayurvedic System or Unani System;

(g) "prescribed" means prescribed by rules made under this Act;

[(h) "Register" means the new register of practitioners maintained under section 14;]

[(i) "registered practitioner" means a practitioner, whose name is entered or deemed to have been entered in the Register;]

(j) "Registrar" means the Registrar appointed under section 13;

(k) "Schedule" means a Schedule appended to this Act; and

(l) "Unani System" means the Unani Tibbi System of Medicine, and includes the modernised form thereof.

CHAPTER II

Establishment and Constitution of Board and Registration of Practitioners

3. Establishment and constitution of Board. - (1) Subject to the provisions of sub-section (6), there shall be established and constituted for the purpose of carrying out the provisions of this Act a Board to be known as "the Board of Ayurvedic and Unani Systems of Medicine, [Haryana] consisting of [eleven] members residing in the State of Punjab of whom -

(a) [four], including the Director and one Principal of any Ayurvedic or Unani institution recognised by the Faculty, shall be appointed by the State Government; and

(b) [seven], of whom not less than [four] shall be persons holding a diploma or degree in the Ayurvedic System or Unani System, shall be elected by the registered practitioners [residing in the State of Punjab] from amongst themselves.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may by the said name sue and be sued.

(3) The Director shall be the *ex officio* Chairman of the Board, and the Vice-Chairman shall be elected by the members of the Board from amongst themselves.

(4) The [seven] seats of members provided in clause (b) of sub-section (1) shall be distributed by the State Government proportionately to their numbers, as counted on the prescribed date before the election between the registered practitioners who follow the Ayurvedic System and the registered medical practitioners who follow the Unani System;

Provided that in determining the proportion a fraction of one-half and less shall be ignored and a fraction of more than one-half shall be counted as one.

(5) Every election or appointment of a member and every vacancy in the office of a member shall be notified by the State Government in the Official Gazette.

[(6) Until the Board is established and constituted in accordance with the provisions of the proceedings sub-sections, as amended by the Punjab Ayurvedic and Unani Practitioners (Haryana Amendment and Validation) Ordinance, 1968, the State Government may constitute a Board consisting of six persons, including the Director, to be appointed by the State Government, and the Board so constituted shall, as from the commencement of that ordinance and for a period [not exceeding seven years] from such commencement, be deemed to be the Board established

and constituted for the purpose of carrying out all the provisions of this Act and the provisions of sub-sections (3) and (5) shall apply to such a Board].

4. Election of members. - The election of members of the Board under clause (b) of sub-section (1) of section 3 shall be held at such time and place and in such manner as may be prescribed.

5. Term of office. - (1) Save as otherwise provided, the term of office of the non-official members of the Board, other than the Board deemed to be established and constituted under sub-section (6) of section 3, shall be five years commencing from the date on which the first meeting of such Board is held :

Provided that an outgoing member shall continue in office until the election or appointment of his successor, as the case may be.

(2) The outgoing member shall be eligible for re-election or re-appointment.

6. Vacancies. - (1) If a vacancy occurs in the office of a member of the Board through death, resignation, removal or disability of such member or otherwise, the vacancy shall be filled in the same manner as is provided in section 3.

(2) Any person elected or appointed to fill the vacancy shall, notwithstanding anything in section 5, hold office only so long as the member in whose place he is elected or appointed would have held office if the vacancy had not occurred.

7. Resignation. - Any member of the Board may at any time resign his office by letter addressed to the Chairman and the resignation shall take effect from the date on which it is accepted by him.

8. Disabilities for continuing as member. - If, in the opinion of the Board, any member of the Board absents himself without sufficient cause from three consecutive ordinary meetings of the Board or becomes subject to any of the disqualifications specified in section 9, the Board shall declare his office to be vacant :

Provided that before declaring his office to be vacant, the Board shall call for his explanation and record its decision thereon.

[8A. Power to remove member. - The State Government may, by notification, remove any member who, in its opinion, has been guilty of misconduct in the discharge of his duties:

Provided that before the State Government notifies the removal of any member the reasons for his proposed removal shall be communicated to him and he shall be given an opportunity of tendering an explanation in writing which shall be duly considered.]

9. Disqualifications. - No person shall be eligible for election or appointment as a member of the Board -

(a) who is a minor or an undischarged insolvent; or

(b) who has been adjudicated by a competent court to be of unsound mind; or

- (c) whose name has been removed from the Register; or
- (d) who has been sentenced by a Criminal Court to imprisonment for such offence involving moral turpitude as may be declared by the State Government.

10. Vacancies etc. not to invalidate proceedings of Board. - No act done, or proceeding taken under this Act by the Board shall be invalid merely on the ground -

- (a) of any vacancy or defect in the constitution of the Board, or
- (b) of any defect or irregularity in election or appointment of a person acting as a member thereof, or
- (c) of any defect or irregularity in such Act or proceeding, not affecting the merits of the case.

11. Time and place of meeting of Board. - The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner, as may be provided in the regulations made under this Act :
Provided that, until such regulations are made, it shall be lawful for the Chairman to summon a meeting of the Board at such time and place as he may deem expedient by letter addressed to each member.

12. Procedure at meetings of Board. - (1) The Chairman and in his absence the Vice-Chairman, and in the absence of both, a person elected by the members of the Board from amongst themselves, shall preside at every meeting of the Board.

(2) All questions at a meeting of the Board shall be decided by the votes of the majority of the members present and voting :
Provided that in case of equality of votes, the Chairman, Vice-Chairman or the person presiding, as the case may be, shall, in addition to his vote as a member of the Board, have a second or casting vote.

(3) [five] members shall form a quorum at a meeting of the Board referred to in sub-section (1) of section 3 and three members shall form a quorum at a meeting of the Board referred to in sub-section (6) of that section :
Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at the next meeting called for transacting the same business.

13. Registrar and other staff. - (1) Subject to such rules as the State Government may make in this behalf, the Board shall appoint a Registrar who shall receive such salary and allowances and be subject to such conditions of service as may be prescribed :

Provided that until a Registrar is so appointed, a person appointed, by the State Government shall, [as from the commencement of the Punjab Ayurvedic and Unani Practitioners (Haryana Amendment and Validation Ordinance, 1968] for the words "as from commencement of the Act" by Haryana Act No. 18 of 1969., be deemed to be the Registrar who shall be

entitled to such salary and allowances and shall be subject to such conditions of service as may be determined by the State Government.

(2) The Board may appoint such other employees as may be necessary for carrying out the purposes of this Act and such employees shall receive such salary and allowances and be subject to such conditions of service as may be prescribed.

(3) All employees of the Board, including the Registrar, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

14. Duties of Registrar. - (1) Subject to the provisions of this Act and the rules made thereunder and subject to any general or special order of the Board, it shall be the duty of the Registrar to maintain the Register and to act as the Secretary to the Board.

(2) The register shall be in such form as may be prescribed and shall contain the names, addresses and qualifications of every registered practitioner together with the dates on which qualifications were acquired and shall be divided into the following two parts, namely :-

Part I containing the names of persons referred to in [sub-sections (1)] of section 15; and

Part II containing the names of persons referred to in [sub-sections (3)] of section 15.

(3) The Registrar shall keep the Register correct as far as possible, and may from time to time enter therein any material alteration in the address or qualifications of the practitioners. The names of the registered practitioners who die or whose names are directed to be removed from the Register under this Act shall be removed from the Register.

(4) A registered practitioner shall, on payment of such fees as may be prescribed, be entitled to have entered in the Register any further degree, diplomas or certificates or other qualifications in Ayurvedic System or Unani System or other recognised medical degrees, diplomas or certificates which he may obtain.

(5) For the purposes of this section, the Registrar may write by registered post to any registered practitioner at the address which is entered in the Register enquiring whether he has ceased to practise or has changed his residence and if no answer is received to the said letter within three months the Registrar may remove the name of the said practitioner from the Register :

Provided that the Board may, if it is satisfied on the application of the said practitioner that he has not ceased to practice, direct that his name be re-entered in the register.

15. Registration. - (1) Every person possessing any of the qualifications specified in Schedule I shall, subject to the provisions of this Act and on payment of such fees as may be prescribed in this behalf, be entitled to have

his name entered in Part I of the Register subject to such conditions as may be prescribed.

[(2)]

[(3) Any person not in possession of the qualifications specified in Scheduled I but]-

(a) whose name is entered immediately before the 13th day of December 1963 in the list maintained under Section 34 of the East Punjab Ayurvedic and Unani Practitioners Act, 1949, or under Section 33 of the Pepsu Ayurvedic and Unani Practitioners Act, 2008 B.K.; or

[(b) who proves to the satisfaction of the Registrar upto 30th June, 1972, that he was in practice as a practitioner on the first day of November, 1966, and is continuing as such;]

shall subject to the provisions of this Act and on payment of such fees as may be prescribed in this behalf, be entitled to have his name entered in Part II of the Register subject to such conditions as may be prescribed.

(4) [Omitted by Haryana Act 18 of 1969]

(5) No person shall be entitled under this section to have his name entered in the Register if he is a minor.

[15A. Registration to be deemed in certain cases. - Notwithstanding anything contained in Sections 14 and 15, every person whose name is entered immediately before the commencement of the Punjab Ayurvedic and Unani Practitioners (Haryana Amendment and Validation) Ordinance, 1968, in Part I or Part II of the Register maintained under this Act before such commencement shall, subject to the provisions of this Act, be deemed to be registered in Part I or Part II, as the case may be, of the Register].

[15B Renewal of registration. - (1) Every registered practitioner shall get his registration renewed within two months of the commencement of the Punjab Ayurvedic and Unani Practitioners (Haryana Amendment) Act, 1983 and thereafter the registration shall be got renewed after every five years within one month of the expiry of the period of registration, on payment of such fees as may be prescribed.

(2) If the registered practitioner fails to get his registration renewed within the period provided in sub-section (1), his name, shall thereafter stand removed from the Register :

Provided that his name may be re-entered in the Register by the Registrar on payment of such additional fees as may be prescribed within two months after the expiry of the period provided for renewal.]

16. Powers of Board to prohibit entry in or to direct removal from Register, etc. - (1) The Board may prohibit the entry in, or order the removal from, the Register of the name of any practitioner -

- (a) who has been sentenced by a Criminal Court to imprisonment for such offence involving moral turpitude as may be declared by the State Government; or
- (b) whom the Board after proper enquiry either made by itself or by a Committee appointed for the purpose by the Board from out of its members, has found guilty of professional misconduct or other infamous conduct by a majority of at least two-thirds of the members present and voting at the meeting of the Board.

(2) The Board may direct that the name of any person against whom an order has been passed under sub-section (1) shall be entered or re-entered as the case may be, after having satisfied itself that due to lapse of time or otherwise the disability mentioned in sub-section (1) has ceased to have any force.

17. Procedure in inquiries. - For the purposes of any inquiry held under clause (b) of sub-section (1) of section 16 the Board or a Committee appointed by the Board shall be deemed to be a court within the meaning of the Indian Evidence Act, 1872 (Act No. I of 1872), and shall, so far as may, follow the procedure laid down in the Code of Civil Procedure, 1908 (Act No. V of 1908).

18. Appeal to Board from decision of Registrar and other powers of Board. - (1) Any person aggrieved by the decision of the Registrar regarding the registration of any person or any entry in the Register may, on payment of such fee as may be prescribed, appeal to the Board.

(2) An appeal under sub-section (1) shall be filed within sixty days of the passing of the order appealed against after excluding the time spent in obtaining a copy thereof and shall be heard and decided by the Board in the manner prescribed.

[(2A) Notwithstanding anything contained in sub-section (2), an appeal under sub-section (1), which could be filed during the period commencing on the 4th February, 1966 and ending with the date of commencement of the Punjab Ayurvedic and Unani Practitioners (Haryana Amendment and Validation) Ordinance, 1968, may be filed within a period of sixty days from such commencement after excluding the time spent in obtaining a copy of the order appealed against].

(3) The Board may, on its own motion or on the application of any person, after due and proper enquiry and after affording the person concerned an opportunity of being heard, cancel or alter any entry in the Register, if, in the opinion of the Board, such entry was made fraudulently or wrongly.

19. Qualified Practitioner's certificate. - Notwithstanding anything in any law for the time being in force, -

- (a) the expression 'legally qualified medical practitioner' or 'duly qualified medical practitioner' or any word importing a person recognised by law

as a medical practitioner or member of medical profession shall in all Acts or other provisions having the force of law in [Haryana] and relating to matters in List II or List III of the Seventh Schedule to the Constitution of India, includes a practitioner registered in Part I of the Register;

- (b) a certificate required by any Act to be issued by any medical practitioner or medical officer shall be valid, if such certificate has been signed and issued by a practitioner registered in Part I of the Register :

Provided that a certificate of illness may also be signed and issued by any practitioner registered in Part II of the Register;

- (c) a practitioner registered in Part I of the Register shall be eligible to hold any appointment as a medical officer in any Ayurvedic or Unani dispensary or hospital supported by or receiving a grant from the State Government and treating patients according to the Ayurvedic System or Unani System or in any public establishment, body or institution dealing with any such System;

- (d) a registered practitioner shall be entitled to use substances in their crude or manufactured form or preparations containing such substances provided their pharmaceutical action in relation to such use is known to him according to the fundamental principles of those medicines.

20. Notice of death. - Every Registrar of Deaths on receiving notice of the death of a registered practitioner shall forthwith transmit by post to the Registrar a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificates and transmissions at an expense of his office.

21. Exemption from serving on inquests. - Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest under the Code of Criminal Procedure, 1898 (Act No. V of 1898).

22. Fees and allowances payable to members. - There shall be paid to the members for attending meetings of the Board such travelling and other allowances as may be prescribed.

23. Mode of proof of Board's records. - A copy of any proceeding, receipt, application, plan, notice, order, entry in a register or other document in the possession of the Board shall, if duly certified by the Registrar or any other person authorised by the Board in this behalf, be received as *prima facie* evidence of the existence of the entry or documents and shall be admitted as evidence of the entry or documents and of the matters therein recorded in every case where, and to the same extent as,

the original entry or document would, if procured, have been admissible to prove such matters.

24. Fees for the issue of copies of orders, entries in Registers etc. - Copies of any order passed by the Board or the Registrar or of any entry in the Register shall be supplied on payment of such fees as may be prescribed.

25. Fees received by Board. - All moneys received by the Board as fees under this Act shall be applied for the purposes of this Act in the prescribed manner.

26. Publication of list of practitioners. - (1) The Registrar shall at least once in every five years on or before a date to be fixed by the Board cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the Register and the dates when such qualifications were acquired.

(2) In any proceedings it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner.

27. False assumption of certificate or diploma to be an offence. - Whoever wilfully and falsely assumes or uses any title or description or any addition to his name implying that he is a registered practitioner shall be punishable for the first offence with imprisonment which may extend to six months or with fine which may extend to two hundred and fifty rupees or with both and for every subsequent offence with imprisonment which may extend to two years or with fine which may extend to five hundred rupees, or with both.

28. Selling medicines by hawking etc. to be an offence. - No practitioner, whether registered or not, shall sell any medicine of the Ayurvedic system or Unani system in a public place as a hawker or by assembling a Majma.

29. Prohibition to practices. - No person other than a registered practitioner, shall practise or hold himself out, whether directly or by implication, as practising or as being prepared to practise the Ayurvedic System or Unani System.

30. Penalty. - Any person who contravenes the provisions of section 28 or section 29, shall, on conviction, be punishable with fine which may extend to two hundred rupees.

31. Power to amend Schedule I. - The State Government may, by notification, amend Schedule I so as to add thereto or omit therefrom any qualification, and thereupon the Schedule shall be deemed to be amended accordingly.

32. Control of State Government. - It at any time it appears to the State Government that the Board has neglected to exercise, or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the State Government may

communicate the particulars of such neglect, excess or abuse to the Board; and, if the Board fails to remedy such neglect, excess or abuse within such time as may be fixed by the State Government in this behalf the State Government may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Board to be exercised and performed by such agency and for such period as the State Government may think fit.

33. Court competent to try offence and cognizance of offences. - (1) No court other than the Court of a [Judicial Magistrate] of the First Class shall take cognizance of, or try, an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an Officer empowered by the State Government in this behalf.

34. Protection of action taken in good faith. - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or under any rules and regulations made thereunder.

CHAPTER III

Disputes regarding Elections

35. Definitions. - In this Chapter, unless the context otherwise requires, -

- (a) "agent" means any person appointed in writing by a candidate at an election to be his agent for the purposes of his election with the written consent of such person;
- (b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) "corrupt practice" means any of the practices specified in Schedule II;
- (d) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (e) "election" means an election to fill the office of a member;
- (f) "electoral right" means the right of a person to stand or not to stand, as, or to withdraw from being, a candidate or to vote or refrain from voting at an election;
- (g) "pleader" means any person entitled to appear and plead for another in a civil court, and includes an Advocate.

36. Election petitions. - No election of a member shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

37. Presentation of petitions. - (1) Any registered practitioner may within a period of thirty days from the date on which the election of any member is notified under sub-section (5) of section 3 and on furnishing the prescribed security in the prescribed manner, present on one or more of the grounds specified in sub-section (1) of section 49 to the prescribed authority an election petition in writing against the election of such member.

(2) The election petition shall be deemed to have been presented to the prescribed authority-

(a) when it is delivered to the prescribed authority -

(i) by the person making the petition, or

(ii) by a person authorised in writing in this behalf by the person making the petition; or

(b) when it is sent by registered post and is delivered to the prescribed authority.

38. Contents of petition. - (1) An election petition -

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the practitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any Schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

39. Procedure on receiving election petition. - If the prescribed security is not furnished in the prescribed manner or the petition is not presented within the period specified in section 37, the prescribed authority shall dismiss the petition :

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

40. Power of Director to withdraw and transfer petitions. - The Director may, at any stage after notice to parties and for reasons to be

recorded, withdraw any election petition pending before a prescribed authority and transfer it for trial to another prescribed authority; and upon such transfer that prescribed authority shall proceed with the trial from the stage at which it was withdrawn :

Provided that such authority may, if it thinks fit, recall and re-examine any of the witnesses already examined.

41. Procedure before the prescribed authority. - (1) Subject to the provisions of this Act and of any made thereunder, every election petition shall be tried by the prescribed authority, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act No. V of 1908), to the trial of suits :

Provided that the prescribed authority shall have the discretion to refuse for reasons to be recorded to examine any witness or witnesses, if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (Act No. I of 1872), shall subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

42. Appearance before prescribed authority. - Any appearance, application or act before the prescribed authority may be made or done by the party in person or by a pleader duly appointed to act on his behalf.

Provided that it shall be open to the prescribed authority to direct any party to appear in person whenever the prescribed authority considers it necessary.

43. Powers of the prescribed authority. - The prescribed authority shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 (Act No. V of 1908), when trying a suit in respect of the following matters -

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit; and
- (g) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to it to be material; and shall be deemed to be a Civil Court

within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

Explanation. - For the purpose of enforcing the attendance of witnesses the local limits of the jurisdiction of the prescribed authority shall be the limits of the State of [Haryana].

44. Documentary evidence. - Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of election petition on the ground that it is not duly stamped or registered.

45. Secrecy of voting not to be infringed. - No witness or other person shall be required to state for whom he has voted at an election.

46. Answering of criminating question and certificate of indemnity. -

(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :

Provided that -

(a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the prescribed authority; and

(b) an answer given by a witness to a question put by or before the prescribed authority shall not except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceedings.

(2) When a certificate of indemnity has been granted to any witness it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act No. VI of 1860), arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any dis-qualification in connection with any election imposed by this Act or any other law.

47. Expenses of witnesses. - The reasonable expenses incurred by any person in attending to give evidence may be allowed by the prescribed authority to such person. and shall, unless the prescribed authority otherwise directs, be deemed to be part of the costs.

48. Decision of the prescribed authority. - (1) Where an election petition has not been dismissed under section 40, the prescribed authority shall inquire into the election petition and at the conclusion of the inquiry shall make an order -

(a) dismissing the election petition; or

(b) setting aside the election.

(2) At the time of making an order under sub-section (1) the prescribed authority shall also make an order -

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording -

(i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid :

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless -

(i) he has been given notice to appear before the prescribed authority and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the prescribed authority and has given evidence against him, of calling evidence in his defence and of being heard.

49. Grounds for setting aside election. - (1) If the prescribed authority is of the opinion-

(a) that on the date of his election that elected person was not qualified or was disqualified, to be elected under this Act; or

(b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns the elected person, has been materially affected -

(i) by the improper acceptance of any nomination; or

(ii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iii) by any non-compliance with the provisions of this Act or of any rules made under this Act;

the prescribed authority shall set aside the election of the elected person.

(2) When an election has been set aside under sub-section (1), a fresh election shall be held.

50. Abatement of Election Petitions. - An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

51. Costs and payment thereof out of security deposits and return of such deposits. - (1) Costs including pleaders' fee shall be in the description of the prescribed authority.

(2) If in any order as to costs under the provisions of this Chapter there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible out of the security deposit made by such party under this Chapter on an application made in writing in that behalf within a period of one year from the date of such order to the Director by the person of in whose favour the costs have been awarded.

(3) If there is any balance left of the security deposit under this Chapter after payment under sub-section (2) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year, the whole of the said security deposit may, on an application made in that behalf in writing to the Director by the person by whom the security has been deposited or if such person dies after making such deposit, by the legal representatives of such person, be returned to the said person or to his legal representatives, as the case may be.

52. Execution of orders as to costs. - Any order as to costs under the provisions of this Chapter may be produced before the principal civil court within the local limits or whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit :

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (2) of section 51, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposit referred to in that sub-section.

53. Corrupt practices entailing disqualification. - The corrupt practices specified in Schedule II shall entail disqualification for membership of the Board for a period of five years counting from the date on which the finding of the prescribed authority as to such practice has been given :

Provided that the State Government may, for reasons to be recorded, remove the disqualification or reduce the period thereof.

CHAPTER IV

Miscellaneous

54. Rules. - (1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the date on which the number of registered practitioners shall be counted under sub-section (4) of section 3;
- (b) the time and place in which, and the manner in which, election shall be held as required by section 4;
- (c) the salary, allowances and other conditions of service of the Registrar and other employees of the Board appointed under section 13;
- (d) the form of Register required to be maintained under section 14;
- (e) the amount of fees payable under sub-section (4) of section 14;
- (f) the amount of fees on payment of which and the conditions subject to which, a person may get his name entered, in Part I or Part II of the Register, under section 15;
- (g) the manner in which appeals against the decision of the Registrar shall be heard and decided by the Board under section 18 and the fees chargeable for such appeals;
- (h) fees and allowances payable to the members under section 22;
- (i) the amount of fees payable for the supply of copies under section 24;
- (j) the manner in which moneys received by the Board as fees shall be applied under section 25;
- (k) the amount of security to be furnished and the manner in which it is to be furnished as required by sub-section (1) of section 37;
- (l) the authority to whom election petitions may be presented and by whom such petitions may be inquired into and decided under Chapter III;
- (m) the form of affidavit required to accompany the petition under sub-section (1) of section 38;
- (n) any other matter which may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two

successive sessions, and if before the expiry of the session in which it is so laid or the session immediate following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rules 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.

55. Regulations. - (1) The Board may, with the previous approval of the State Government, make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters, namely :-

- (a) the time and place at which the Board shall hold its meetings and the manner in which such meeting shall be summoned under section 11;
- (b) any other matter which may be considered necessary for carrying out the purposes of this Act.

(2) All regulations shall be published in the Official Gazette.

(3) The State Government may by notification cancel any regulation.

56. Interpretation. - The Punjab General Clauses Act, 1898, shall apply for the interpretation of this Act as it applies for the interpretation of a Punjab Act.

57. Repeal and savings. - (1) The East Punjab Ayurvedic and Unani Practitioners Act, 1949 and the Pepsu Ayurvedic and Unani Practitioners Act, 2008 B.K., are hereby repealed :

Provided that the repeal shall not affect :-

- (a) the previous operation of the Acts so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Acts so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Acts so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the proviso to sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation or form framed), under the Acts repealed by sub-section (1) shall, in so far as it is not inconsistent with this Act, be deemed to have been done or taken under the corresponding

provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

58. Transitional provisions. - (1) As from the commencement of this Act, the two Boards of Ayurvedic and Unani System of Medicine, established and constituted under the East Punjab Ayurvedic and Unani Practitioners Act, 1949 and the Pepsu Ayurvedic and Unani Practitioners' Act, 2008 B.K., shall cease to function.

(2) On the Board's so ceasing to function, all assets vesting in them, and all liabilities subsisting against them, on the date of so ceasing shall devolve on the Board.

(3) All suits, prosecutions, and other legal proceedings instituted or which might have been instituted by or against any of the Boards so ceasing to function immediately before the commencement of this Act may be continued or instituted by or against the Board.

(4) The permanent officers and servants of the Boards so ceasing to function shall be either absorbed by the Board in its service on conditions which are not less advantageous to those on which they were serving such Boards immediately before the commencement of this Act or retired or compensated in accordance with the conditions of their service in such manner as the State Government may direct.

59. Power to remove difficulties. - If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions, or give such directions, not being inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

Schedule I

[See sections 15 and 31]

1. Degree or Diploma of any Ayurvedic or Unani College recognised by the Faculty (with at least four years course) within Punjab or outside it, or a degree in the Ayurvedic System or Unani System of Medicine of any University established by law in India :

Provided that persons who have already qualified from any Ayurvedic or Unani College or Institution prior to the commencement of this Act in a course of a duration of less than four years, will also be entitled for registration.

2. Final examinations held by the Faculty or by any college or institution affiliated to the Faculty.

3. Final examination from any Ayurvedic or Unani Institution in Punjab or outside it, recognised by the Faculty or the Board for the purposes of registration.

Schedule II

[See sections 35 (c) and 53]

The following shall be deemed to be corrupt practices for the purposes of section 53 -

(1) Bribery, that is to say, -

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing -

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) a voter to vote or refrain from voting at an election; or as a reward to

-

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) a voter for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward-

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation. - For the purposes of this clauses, the term 'gratification' is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interference on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent, with the free exercise of any electoral right :-

Provided that, -

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who -

(i) threatens any candidate or a voter or any person in whom a candidate or such voter is interested, with injury of any kind and including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested, will become or

will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or a voter within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols such as the national flag or the national emblem for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person with the consent of a candidate or his agent, or any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station provided or a place fixed for the poll;

Provided that the hiring of a vehicle by a voter or by several members at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be corrupt practice under this clause, if the vehicle so hired is a vehicle not propelled by mechanical power:

Provided further that the use of any public transport vehicle by any voter at his own cost for the purpose of going to or coming from any such polling

station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation. - In this clause, the expression "vehicle" means any vehicle used capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government, the Government of India or the Government of any other State or a local authority".