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Review Article

Proliferation of Alternative Medicines Practice in Ghana: Justification for Expedited Passage of the Traditional and Alternative Medicine Bill, 2018 towards improvement in the regulation of the Practice

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Abstract

The practice of traditional and alternative medicine in Ghana cannot be underestimated as many people have embraced the services of practitioners partly due to the minimum side effects involved. Practitioners of alternative medicines have also helped in educating the public on preventative issues and ultimately curative as well. However, a section of the public has raised concerns concerning activities of some practitioners, level of medical training, titles they use, the quality of schools run by some practitioners and the kinds of certificates they issue to trainees. As a practitioner, a staunch advocate of naturopathic medicine and a law student, I am now particular about policies and the legal framework for this industry to help streamline the sector to save the many vulnerable patients and ultimately complement conventional healthcare. This is because no industry is supreme. I believe this would also help to do away with the quack or unqualified practitioners in the system. This paper seeks to address these issues. The author will, as a Student of Law, seek to research into these areas by discussing relevant judicial decisions in other Common Law jurisdictions. This is because, to the best of my knowledge, no case relating to alternative medicine has been adjudicated in our courts in Ghana.

Keywords: Alternative medicine, traditional Medicine, common law, legal framework, adjudication.

INTRODUCTION

As a law student and practicing Holistic and Naturopathic Medicine, the law had a great impact and influence in my medical journey and future legal practice in medical law with regards to alternative medicine practice and policy directions. Interestingly, when I juxtapose the many cases I have come across in the course of research into the field of alternative medicines in other jurisdictions and with what pertains in Ghana, the question is sometimes asked: What would be the fate of many practitioners in Ghana if what is happening in other jurisdictions happen in Ghana? The law and medicine appear to be a battlefield! I look at the so many advertisements, claims; backgrounds coupled with the many network marketing companies selling their products and ask a simple question whether practitioners actually understand some of the things we do? Also, is the regulatory body in Ghana, the Traditional and Alternative Medicine Practice Council of the Ministry of Health established in 2000 based on Traditional Medicine Practice, 2000 (Act 575) resourced enough to carry its legal mandate? As a practitioner and a student of Law, the author has even now become more defensive than previously and that is the impact that the study of Law has had on me. One interesting lesson that I have learnt in legal studies is that, it pays for every practitioner to sit up and do the right thing!

In 2000, the Parliament of Ghana enacted the Traditional Medicine Practice, 2000 (Act 575 to regulate traditional medicine as it was practiced at that time. Act 575 was silent on alternative medicine practice. The law established the then Traditional Medicine Practice Council. Fast forward, policy makers underscored the need to add alternative medicine to its regulation and Ministerial directives were given per the information available to me. As it stands, there is a new Bill pending before (Parliament) which started in 2014 known as the Traditional and Alternative Medicine Bill, (2014) (now rechristened Traditional and Alternative

Medicine Bill, 2018) to the best of my knowledge. This current Bill, if passed, will ultimately recognize both traditional and alternative medicine fully into our healthcare system. Currently, the then traditional Medicine Practice Council of the Ministry of Health is now Traditional and Alternative Medicine Practice Council of the Ministry of Health. We are waiting for the passage of the new Bill as it stands for full national recognition. This means that, alternative medicine is totally different from traditional medicine. Alternative medicines are imported into this country as defined by the Traditional and Alternative Medicine Bill.

Though, India practices Pluralist Medicine, there is so much acrimony in the medical sector. One institution which had promoted and trained thousands of practitioners in Alternative Medicine locally and globally was recently barred from training and promoting alternative medicines. The news which was recently published in the Times of India, 2020, had the headline, "The Sad Demise of the Indian Board of Alternative Medicines". Per the publication, it was alleged by the State of West Bengal in 2017 that one institution of Alternative Medicines run by one Mr. Romes Badyo out of Barasat, West Bengal, was flouting the Government norms and had been working without any approval or accord from Medical Council of India (MCI) had awarded certain degrees in Allopathic Medicine and Surgery. The Government of West Bengal in an immediate reaction lodged FIRs (A First Information Report) against all institutions of Alternative Medicines with strict instruction to detain and arrest Officials of all such institutions.

Legal Framework in India

Ministry of AYUSH-India Model

In India, in terms of alternative health care, a majority of the populace have invested in yoga, Ayurveda, homeopathy, and acupressure. The only recognized and legal form of alternative remedies is those under the purview of the AYUSH Ministry. According to the AYUSH website, the Ministry of AYUSH was formed on 9th November, 2014. Earlier it was known as the Department of Indian System of Medicine and Homeopathy (ISM&H) which was created in March 1995 and renamed the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) in November 2003 to provide focused attention for the development of Education and Research in Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy.

(AYUSH?) has the following objectives:

i. To upgrade the educational standards of Indian Systems of Medicines and Homoeopathy colleges in the country.
ii. To strengthen existing research institutions and to ensure a time-bound research programme on identified diseases for which these systems have an effective treatment.
iii. To draw up schemes for promotion, cultivation and regeneration of medicinal plants used in these systems.
iv. To evolve Pharmacopoeial standards for Indian Systems of Medicine and Homoeopathy drugs.

Education

Bachelor of Ayurvedic Medicine and Surgery (BAMS)

The curriculum for recognized system of alternative medicine under the AYUSH Ministry is uniform throughout the country. 5½ years (4½ year main course + 1 year Internship) Degree course leading to Bachelor of Ayurvedic Medicine and Surgery (BAMS) Ayurvedacharya is being conducted throughout the country under IMCC Act, 1970. The syllabi and curriculum is uniform throughout the country and is being conducted only in Ayurvedic Medical Colleges affiliated to universities and only after getting permission from Department of AYUSH, Union Government of India to start the course to undertake the admissions. Central Council for Indian Medicine (CCIM) is the statutory regulatory body constituted under IMCC Act, 1970 regulating the Ayurveda education at degree level as well as at PG level as well as the practice of Ayurvedic Medicine in India.

PG Degree Courses

The PG degree course is of three years' duration leading to specialty in the concerned subject with the degree of MD (Ayurveda Vachaspati)/MS (Ayurveda Dhanwantari) after successfully completion of the course. The syllabi and curricula for each specialty is uniform throughout the country and is being conducted only in Ayurvedic Medical Colleges affiliated to universities and only after getting prior permission from Dept. of AYUSH, Union Govt. of India to start the course/undertake the admissions. Post graduate Degree courses (MD/MS) are being conducted in following 22 specialties.

PG Diploma Courses

The PG diploma course is of two years' duration leading to specialty in the concerned subject after successfully completion of the course. The syllabus and curriculum for each specialty is uniform throughout the country and is being conducted only in Ayurvedic Medical Colleges affiliated to universities and only after getting prior permission from Dept. of AYUSH, Union Govt. of India to start the course/undertake the admissions. Post-graduate Diploma courses are being conducted in following 16 specialties.

Courses in Yoga and Naturopathy

Past - 4 years course leading to Diploma in Naturopathy (N. D.) including Yoga, at Hyderabad 1970 to 1990.

Present - $5^{1/2}$ years ($4^{1/2}$ years course + 1 year Internship) Degree course leading to Bachelor of Naturopathy & Yogic Sciences (B.N.Y.S.) since 1989.

Present Status of Naturopathy & Yoga in the Country

Table-1: Government Registered Naturopathy and Yoga Doctors as at 09/09/2020 per AYUSH Website

S. No	Name of the State Boards of Indian Medicine	Started from the year	No. of Naturopaths
	Board of Indian Medicine, Secunderabad, Govt. of A.P.	1974	800
	Karnataka Ayurveda, Unani & Naturopathy Practitioners Board, Bangalore, Govt. of Karnataka	1994	340
	Tamil Nadu Board of Indian Medicine, Chennai, Govt. of Tamil Nadu	1995	670
	M.P. Ayurveda, Unani, Prakritik Chikitsa Board, Bhopal. Govt. of MP	1975 (Amended in 2006) (Since 2007)	18
	Chattisgarh Ayurveda, Unani & Naturopathy Board, Raipur. Govt. of CG	Act passed in 2006-07 Registration since 2008	75
	Total		1903

Bachelor in Unani Medicine (BUMS)

Unani Medicine is a system of alternative medicine that originated in ancient Greece but is now practised primarily in India. Involving the use of herbal remedies, dietary practices, and alternative therapies, Unani medicine addresses the prevention and treatment of disease. The Bachelor in Unani Medicine and Surgery (BUMS) is also known as Kamil-e-Tib-o-Jarahat. This program is yet another option for those desiring to get an undergraduate degree in Alternative Medicine. BUMS, like all Alternative Medical undergraduate programmes that fall into the AYUSH category - Ayurveda, Yoga & Naturopathy, Unani, Siddha, and Homeopathy, is monitored by the Central Council of Indian Medicine. Unani focuses on four different treatment therapies in its field: massage, diuresis, Turkish bath, pharmaco-therapy, diet therapy, purging, regimental therapy venasection, exercise; use of herbal, animal and mineral drugs, and surgery. The length of this programme is about five and a half years, including one year for a compulsory rotating internship.

Bachelor in Siddha Medicine and Surgery

The Indian Government also gives its focus on Siddha, by starting up medical colleges and research centers like National Institute of Siddha and Central Council for Research in Siddha. The aim of the programme is to educate its aspirants on scientific knowledge of Siddha so as to produce graduates who are qualified and trained to become surgeons, physicians, teachers as well as research scholars in the field. The programme has been designed so that the graduates are able to completely contribute to the scientific and medical community of India. The length of this program is about five and a half years, including one year for a compulsory rotating internship.

BHMS (Bachelor of Homeopathic Medicine and Surgery)

The program is an undergraduate degree in the medical field. This degree covers the medical knowledge of the homeopathic system. After completing this degree, one is eligible to become a doctor in the homeopathic medical field. The degree holder is eligible to have the prefix as a doctor; the abbreviation is Dr. Homeopathy is the system of Alternative Medicines. The patients are taken care of by enhancing the natural healing power of the human body. The concept of homeopathy is that the body rejuvenates itself because of its self-healing power.

"Homeopathy is the holistic medical system which is involved in the treatment of patients with the high dilutions of the homeopathic medicines mainly in liquid and tablet form, which enhances the body's natural healing system".

Homeopathy is the third popular medication system in India, after the allopathic and the ayurvedic system. According to this system the emotions, mind and body are interlinked and remedies which effect on them will seem to fit for the patient. The person got sick or has a disorder if he is out of the harmony of the above three. The homeopathic medicines are given to the patient as per their physical symptoms, emotional problems and their lifestyle. And the best part of this medication system which makes it valuable among the others that there is no side effect on the body with these medicines. This degree is awarded after the completion of 5.5 years academic programme containing the 4 and 1/2-year academic session and one year internship programme with live practical.

Legality of the System of Alternative Medicines and its Education/Practice

Interestingly, any other alternative system of medicine not under the AYUSH Ministry comes with

many controversies. Many institutions offering such courses have faced several challenges.

Alternative System of Medicines is a system of maintaining well-being, diagnosis, preventing illness and treating diseases. It covers a broad range of traditions, cultures, and practices, healing philosophies, approaches and therapies, based on natural laws of holistic health, diet regulation, breathing practices, meditation and the use of natural substances. It is devoid of the use of antibiotics and chemicals, i.e., outside the realm of conventional modern medicine - Allopathy. World Health Organization W.H.O) has also recognized the importance of Complementary and Alternative Medicines to achieve its goal of Health for all.

In India, Alternative Medicine is not regulated by the Medical Council of India or under any legal framework, but at the same time, there exists No bar qua the administration of education/training courses in this regard nor in relation to the practice of the same. Though controversy exists, some states are in support of the practice and education of other alternative system of medicines outside the AYUSH Ministry. For instance, on 07.05.1990, the Hon'ble Calcutta High Court in its decision in The Council of Alternative system of Medicine & Anr. vs. state of west Bengal & Ors. 1991(2) CLJ 173 set aside complaint dated 17 -12-1987 filed by the State of West Bengal against the Council of Alternative System of Medicines and Ors. While considering the scope and effect of "Naturopathy", the Court held that "…a system of medicine which is devoid of any therapy by chemicals or drugs, where the human body system is assisted to obtain a cure by controlling diet, the senses and breathing, does not contravene any statute."

Also, the Hon'ble Supreme Court on 20.02.2015 in the case of G,G.S, Med. inst. Of & Hosp, of Elect. & Anr. Vs. Union of lndia & Ors' dismissed the SLP pressing for a ban on the medical practice of Electro Homoeopathy in view of an affidavit filed by the Union of India stating that the issue relating to alternative systems of medicine has already been considered and disposed of by the Hon'ble Supreme Court and the process of legislation is in progress. It was also stated that till such time, the education and practice of alternative systems of medicine other than those already recognized, is not barred.

The Central Information Commission, Government of India, in its order F. No.CIC/RK/A/2016/001309-YA dated 15.09.2016 with reference to the policy decision of the Ministry of Health and family Welfare, Government of India, and Orders of High Courts India Supreme Court, duly noted that even though there is no policy decision yet recognizing Alternative Medicines like Electro Homoeopathy, there is no ban or restraint on its practice, education and research.

Lastly, on 28.02-2017, the Government of India, Ministry of Health and Family Welfare issued a Notification in respect of a mechanism for the consideration of proposals for the recognition of new/ alternative systems-of medicine. The said Notification clarifies, as it stands, that there is no framework to regulate alternative systems of medicines in the country. In conclusion, though, the Ministry of AYUSH recognizes alternative remedies such as Naturopathy and Yoga, Unani, Ayuverdic Medicine, Homeopathy and Siddha officially as the main for utilization in India, other alternative medicine systems are also allowed but unofficially. Further, there is no law that bars the other system utilization and depends on state by state cases. The AYUSH Ministry also has their own Minister in Charge of the practice.

Though Ghana shares some commonalities with the Indian system, there exist a difference. The difference being that, Alternative Medicine is practiced and regulated based on Ministerial directive, hence, under the purview of the Traditional Medicine Practice Council of the Ministry of Health. In 2000, parliament of Ghana enacted the Traditional Medicine Practice ACT 575. The aim then was to promote, regulate and propagate Traditional Medicine and not alternative medicine. However, along the line, policy makers realized other system of traditional medicine practices that were alien, termed as Alternative Medicine.

Alternative Medicine was therefore defined as any practice that is imported into this country, which is also traditional medicine of other countries. The big issue for policy makers was the definition of a Traditional Medicine Practitioner. The issue being that, foreign traditional medicine practices such as naturopathy, homeopathy, acupuncture et al are considered alternative, hence, there can be no way to recognize these practitioners as Traditional Medicine Practitioners in Ghana. However, traditional and alternative practices go hand in hand. Hence, the need for official recognition of the foreign practices in Ghana. This paved the way for proposal of the amendment of the Act 575.

Today, the Council has embraced Alternative Medicine and is now termed as Traditional and Alternative Medicine Practice Council, Pending the promulgation of the new Traditional and Alternative Medicine Bill, 2018. The bill itself started in 2014 under the then National Democratic Congress Administration. There is also the Traditional and Alternative Medicine Directorate (TAMD) which act as the policy driven unit for the sector. This Directorate ensures the availability of technical expertise, plans, regulations, standards, programmes and projects for the

Traditional and Alternative Medicine sub-sector of the Ministry.

Levels of Alternative Medicines recognized per the information available on the practitioner's application form are:

1. Massage/Manipulation Therapist
2. TCM-Traditional Chinese Medicine
3. Ayurvedic
4. Acupuncture
5. Naturopathy
6. Homeopathy
7. Chiropractic
8. Holistic Medicine
9. Integrative Medicine and
10. Bio regulatory Medicine

The use of title "Dr" by practitioners

Section 13 of the Traditional Medicine Practice ACT, 575, Ghana stipulates that:

The Minister, on the recommendations of the Board given in consultation with the Association, may. prescribe by Regulations the titles to be used by practitioners based on the type of service rendered and the qualifications of the practitioners

Interesting, our laws have not yet been tested with regards to the practice of natural medicine, titles given to them and many more unlike India and the rest. Additionally, per my knowledge, there hasn't been any case regarding natural medicine practice in our law courts, however, since the laws in Ghana also accepts the common law per Article 11, I will examine the common law cases and draw the similarities.

In the case of Sanjib Das vs. State of W.B. & Ors on 27 November, 2013, the Calcutta High Court held that person having obtained a degree/certificate/diploma to practice Alternative medicines can prefix 'Dr.' or 'Doctor' or any other. Once they obtained such valid certificates they are entitled to practice alternative medicines. No law prohibits them from practicing alternative medicines. The issue here had to do with whether a person having obtained a degree/certificate/diploma to practice alternative medicines can prefix 'Dr.' or 'Doctor' or any other such prefix to their names, falls for consideration in this petition. The Petitioner alleged that the respondents are representing themselves as doctors/medical practitioners by using a prefix 'Dr.' before their names. Petitioner has relied upon various prescriptions issued by the Respondent. Petitioner says that neither respondent possesses an M.B.B.S. degree or the basic minimum degree for them to describe themselves as doctors.

Petitioner has made a representation to the Indian Medical Association on 3rd November, 2007. The Indian Medical Association forwarded the petitioner's complaint to the Commissioner of Police Kolkata to take necessary action. According to the petitioner, another body of medical practitioners namely I.M.A. academy of medical specialties also requested the Commissioner of Police Kolkata to take action. Petitioner claims that the Police Authorities did not take any action. Petitioner made representations to various authorities which did not evoke a favorable reply. In such circumstances, the petitioner has approached this Hon'ble Court for seeking direction on the State respondents to initiate enquiry on the basis of Memo No HAD/6 R-37-2001/Pt-1/A 1573/1 dated 14th March, 2008 and a further order seeking the State respondent to ensure that the respondents are restrained from representing themselves as doctors and/or from practicing as medical practitioners without possessing requisite qualification.

By an order dated 21st November, 2008, the Indian Board of Alternative Medicines was added as respondent No. 16. By an order dated 12th March, 2010, leave was granted to prosecute the petition in a representative capacity against the respondent Nos. 14 and 15 as representing all the persons who have been conferred the degrees/diplomas/certificates of registration by the Indian Board of Alternative Medicines, Kolkata.

Affidavits have been filed by a member of the public seeking to support the system of Alternative Medicines and seeking to support the use of prefix Dr. before the name of practitioner on alternative medicine. Suman Motilal Shah claims to be a registered practitioner having diploma in magnet therapy under the Indian Board of Alternative Medicines has filed an affidavit opposing the grant of reliefs. Mr. Partha Mukherjee has filed a similar affidavit. An application for addition of party has been made on behalf of Suresh Chandra Majumder who states that several institutions enumerated in paragraph 6 to his application are issuing degrees/ diplomas/certificates and that candidates of such institutions are using the prefix doctor or Dr. and that they are not entitled to. Suresh Chandra Majumder seeks to support the petitioner. The institutions named in paragraph 6 to the application of Suresh Chandra Majumder who are added as respondents to the Writ Petition as respondent Nos. 17 to 21. The respondent No. 21 has used an affidavit opposing the writ petition.

The Indian Board of Alternative Medicines through its president has affirmed an affidavit stating that although the system of alternative medicines has not been recognized by any Central law or State law, no law prohibiting its user in West Bengal. Although Dr. is used as prefix the term alternative medicines is used after the name of the practitioner in their letter heads which clarifies the position entirely, and that, therefore, there is no scope for misrepresentation if a prefix Dr. is used. It is also contended that Dr. is used to denote that the practitioner of alternative medicines is distinguished from quacks. The writ petition received the

consideration of the Division Bench from time to time. By an order dated 12th March, 2010 the respondent Nos. 14 and 15 and similarly situate persons were restrained from using the title Doctor or Dr, in abbreviated forms with their names. Counsel for the petitioner contends that the respondent No. 14 and 15 and for that matter any person similarly situate as that of the respondent Nos. 14 and 15 are not entitled to use the prefix Doctor or Dr. to their names.

He contends that none of the respondent Nos. 16 to 21 are recognized institutes within the meaning of the Indian Medical Council Act, 1956. Certificates issued by the respondent Nos. 16 to 21 are not recognized in any of the schedules to the Indian Medical Council Act, 1956. The petitioner relies on section 6 of the Indian Medical Degrees Act, 1916 to contend that user of doctor or Dr. without requisite permission, is a punishable offence. Counsel for the respondent Nos. 14 and 15 contends that they obtained valid certificates from the respondent no. 16. Having obtained such valid certificates, they are entitled to practice alternative medicines. No law prohibits them from practicing alternative medicines. The respondent Nos. 14 and 15 contends that they have treated various patients and also obtained patent in respect of a particular medicine. They also contend that the members of the public are satisfied with the quality of medical relief given by them. The respondent No. 16 has used an elaborate affidavit. In such affidavit the respondent No. 16 has highlighted the various accolades that it received in its field from various institutions and personalities. It also relies on international practice.

In the second affidavit filed on behalf of the respondent No. 16, it has been admitted that the system of alternative medicines has not been recognized by any Central Law or State law. The respondent No. 16, however, contends that there is no law in West Bengal prohibiting the user of prefix doctor or dr. prior to the names. Respondent No. 16 claims to be registered under the West Bengal Societies Registration Act, 1961. It has also relied upon its rules and bye laws.

Respondent No. 21 a similarly situate as that of the respondent No. 16 has used an affidavit. In such affidavit the respondent No.21 claims itself to be an affiliated institution under Act XXVI of 1961. It claims that since persons practicing Homeopathy, Ayurvedic, Unani and Siddha systems of medicines are entitled to use the prefix doctor it would be discriminatory if practitioners of alternative medicines are not allowed to use the same. Submissions have been made on behalf of the respondent Nos. 16 and 21 in line with their affidavit before us. We have heard the rival contentions of the parties and have perused the records. The Indian Medical Council Act, 1956 has come into effect from 30th December, 1956. The statement of objects and reasons of the 1956 Act postulate that the 1956 Act would provide for the maintenance of an all India register by the Medical Council of India which will contain the names of all Medical practitioners possessing recognized medical qualification.

Section 2(d) of the 1956 Act defines Indian Medical Register as the medical register maintained by the Council. Section 21 of the 1956 Act requires the Council to maintain in the prescribed manner a register of Medical Practitioners. The Register is deemed to be a public document within the meaning of the Indian Evidence Act, 1872. The Council is defined in section 2(b) of the 1956 Act as Medical Council of India constituted under the 1956 Act. A recognized medical qualification is defined by section 2(h) of the 1956 Act to mean any of the medical qualifications included in the schedules of the 1956 Act. It is an admitted position that none of the respondent Nos. 16 to 21 and the diplomas, degrees, certificates and licenses issued by them are recognized under the Indian Medical Council Act, 1956. Section 15 of the 1956 Act gives right to persons possessing qualifications in the schedule to the Act of 1956 to be enrolled on any State Medical Register. State Medical Register is defined in Section 2(k) of the 1956 Act to mean a register maintained under any law for the time being in force in any State regulating the registration of practitioners of medicines. The Scheme of the 1956 as appearing in Sections 10-A and 10-B shows that no medical qualification granted by a medical college except with the previous permission of the Central Government in accordance with section 10-A shall be a recognized medical qualification for the purpose of the 1956 Act.

Section 11 of the 1956 Act deals with recognition with medical qualification granted by universities or medical institutions in India. The medical qualifications granted by any university or medical institution in India which are included in the first schedule to the said Act is to be recognized medical qualification for the purposes of the 1956 Act.

"Our attention has also been drawn to section 6 of the Indian Medical Degrees Act, 1916. The scheme of the two Acts leads us to hold, only a person holding a recognized medical qualification and having his name in Medical Register, is entitled to use "doctor" or "dr." as a prefix. Admittedly, the respondent Nos. 15 to 21 are not included to the first schedule of the said Act. Section 12 of the 1956 Act speaks of recognition of medical qualifications granted by medical institutions in countries with which there is a scheme of reciprocity. The second schedule specifies the medical qualifications granted by medical institutions outside India. Section 13 of the 1956 Act speaks of recognition of medical qualifications granted by medical institutions whose qualifications are not included in the first of the second schedule but recognized as medical qualifications for the purposes of the 1956 Act. The respondent Nos. 16 to 21 do not fall within the second of the third schedule of the 1956 Act.

Our attention has also been drawn to section 6 of the Indian Medical Degrees Act, 1916. The alternative medicines practiced by persons to whom diplomas, degrees, certificates or licenses have been given by the respondent Nos. 16 to 21 may receive favorable acceptance by institutions and personalities. Such acceptance does not in any manner confer a right on such persons to use the prefix doctor or dr. to their name. A person who has obtained a medical qualification in terms of the Indian Medical Council Act, 1956 and whose name appears in the register of medical practitioners as contemplated under the said Act of 1956, is entitled to use the prefix doctor or dr.. To allow any other person to use such prefix and to practice medicines would be against the scheme of the Indian Medical Council Act, 1956 and the Indian Medical Degrees Act, 1916.

In such circumstances, we allow writ petition directing the State Authorities to take appropriate action on the Memo dated 14th March, 2008 as expeditiously as possible and restrain the respondent Nos. 14 and 15 and all other persons similarly situated, from using the prefix doctor or dr. in any manner whatsoever with their names. With the aforesaid directions this writ petition is disposed of. There would be however no order as to costs.

In Ghana, titles of practitioners of traditional and alternative medicines are prescribed by the Traditional and Alternative Medicine Practice Council of the Ministry of Health based on Act 575. Hence, titles being used by practitioners are governed by statute. There are many challenges:

1. The challenge has to do with whether the titles prescribed for these practitioners are based on their level of medical training and for how long is the training?
2. What are the recognized medical schools accepted by the Council to provide the training for the practitioners?
3. Is the curriculum based on the World Health Organisation (WHO) benchmark?
4. Is there a uniform curriculum for the different types of practices in alternative medicines in Ghana accepted or adopted by the Traditional and Alternative Medicine Practice Council (TMPC) of the Ministry of Health?
5. What is the minimum level of training a person has to undergo before licensure?
6. How do foreigners acquire their licenses from the council? This is because, in the conventional medical sector, foreign trained Medical doctors who returns home are made to write the licensure exams but is this the case as pertains to alternative medicine sector in Ghana?
7. Interestingly, there are many practitioners in Ghana with licenses from the Traditional and Alternative Medicine Practice Council without any medical qualification or training. So the question is: How do they get the licenses and under which conditions? Which formal training did they undergo to qualify them to practice Alternative Medicines? These issues and many others need urgent national attention through the Traditional and Alternative Medicine Practice Council.

The Practice

One landmark case answered this question in Dr. Abdul Nafis Khan & Ors vs. State Of Chhattisgarh & Ors 71 ... on 25 July, 2018 at the Chattisgarh High Court. The Hon'ble Shri Justice Sanjay K. Agrawal Order On Board 25/07/2018 held that, since this batch of petitions involves common question of law and fact, they are heard together and are being disposed of by this common order. In this case, the petitioners are claiming to be registered doctors from the Institute of Alternative System of Medicine Board and claiming to be practicing in Alternative Medicine. "In the earlier round of writ petition, this Court by its order dated 19-2-2014 directed the Director, Health Services to take appropriate decision on the petitioners' application for registration / recognition as practitioner in Alternative Systems of Medicine."

The Director, Health Services by its order dated 21-5-2014 referring to the order of the Central Government dated 25-11-2003 rejected the representation against which this batch of writ petitions have been filed. Mr. Abdul Wahab Khan, learned counsel appearing for the petitioners, would submit that the petitioners are duly registered doctors from the Institute of Alternative System of Medicine Board and have Alternative Medicine degree and are entitled to practice in the Alternative System of Medicine by virtue of the orders passed by the High Court of Madhya Pradesh in W.P.No.4169/1998 (Arabinda Biswas and others v. Commissioner, Bilaspur Division", Bilaspur and others), decided on 19- 3-1999, and W.P.No.431/2000 (Dr. T. Kanta Rao v. State of M.P. and others), decided on 5-5-2000.

Interesting, the learned judge also opined that: "It is correct to say that the Government of India constituted a Standing Committee of Experts to consider and give its recommendations to the Government on the efficacy / merits of various forms of alternative medicine and also examine feasibility of making legislation. The Committee did not recommend recognition to any of the alternative medicines except the already recognized traditional systems of medicines i.e. Ayurveda, Siddha, Unani, Homeopathy and Yoga & Naturopathy which has been communicated by order dated 25-11- 2003. The operative portion of the order dated 25-11-2003 states as under:

"The Committee did not recommend recognition to any of these alternative medicines except the already recognized traditional systems of medicines viz: Ayurveda, Siddha, Unani, Homeopathy and Yoga

& Naturopathy which were found to fulfill the essential & desirable criteria developed by the Committee for recognition of a system of medicine. The Committee has, however, recommended that certain practices as Acupuncture and Hypnotherapy which qualified as modes of therapy, could be allowed to be practiced by registered practitioners or appropriately trained personnel. The Committee further suggested that all those Systems of Medicine not recognized as separate Systems should not be allowed to continue full time Bachelor and Master's degree courses and the term **"Doctor"** should be used only by practitioners of Systems of Medicine recognized by the Government of India. Those considered as Mode of Therapy can be conducted as Certificate courses for registered medical practitioners to adopt these modes of therapy in their practice, whether modern medicine or Indian Systems of Medicine and Homeopathy."

The aforesaid report has been accepted by the Central Government which has also been stated in the said letter and which states as under: -

"After carefully examining the various recommendations of the Committee, the Government accepted these recommendations of the Committee. Accordingly, it is requested that the State/UT Govt. may give wide publicity to the decision of the Govt. They may also ensure that Institutions under the State/UT do not grant any degree / Diploma in the stream of medicine which have not been recommended for recognition and the term 'Doctor' is used by practitioners of recognized system of medicine."

In Tamilnadu Siddha Medical vs Indian Medical Association on 11 February, 2011, the petitioner had claimed that he had underwent self-employment course for youth conducted by the Madurai Kamaraj University in Herbal Education. He had undergone training in Acupuncture Therapy conducted by the Department of Adult Continuing Education and Extension, Madurai Kamaraj University. He has diploma in Acupuncture and Herbal Physiotherapy as well as holding diploma in Siddha Medicine. He is also practicing an alternate medicine of Acupuncture, Herbal and Siddha Medicine. He seeks for a direction to the respondent police at Sivagangai to forbear them from interfering with the peaceful and lawful practice of the petitioner in the field of Siddha, Herbal Medicine, Herbal Physiotherapy and Acupuncture. When that writ petition came up for hearing, the learned Government Pleader took notice. No interim order was granted by this court.

Also in Wing Commander (Retired) H.M. ... vs. Ministry Of Human Resources And others on 18 November, 1998, the respondent filed a reply affidavit and stated that it is affiliated to the Indian Board of Alternative medicines and is authorized to guide the students for admission to various courses conducted by the said Board. It has been giving advertisements for regular as well as correspondence courses. Indian Board of Alternative Medicines is registered under Act XXVI of 1961 of the Govt. of West Bengal, and is affiliated with the Open International University for complimentary medicines and the courses are approved and recognized by this University. It is stated that after completion of the course one can register his name as a registered medical practitioner under Rule 7A of the said Board and start practice as per the rules and regulations of the Board. It is admitted that the Board awards degrees including Ph. D. MD, Master, Bachelor etc. as well as diplomas and certificates but the degrees granted by the said Board are entirely different from those granted by the UGC under Section 22 of the UGC Act, 1956.

It is further stated that the Board does not permit persons whom degrees etc. are awarded to practice except in alternate medicines such as accupressure, accu-puncture, magnet therapy, naturopathy, yoga, flower remedy and other indigenous medicines. They are not allowed to practice in Homeopathy, Allopathic, Ayurveda or Unani Medicines.

Submission was made by S/Sh. V.C. Misra appearing for respondent and P.N. Duda for Students Association. The submission was that the Ayurveda had been practiced for thousands of years by the peoples as an unrecognized medical system and it was only in 1970 that the Govt. of India gave recognition to it by enacting Indian Medicine Central Council Act. Likewise Homoeopathy which was brought to India in 1839 by Dr. Honiberger Germany, was being practiced for about 110 years as an unrecognized system before it came to be recognized by the Govt. of India by passing Homoeopathy Central Council Act.

The Govt. would also grant recognition to Electropathy system in the future. According to the learned counsel, there is no legislation whatsoever prohibiting a body or person from conducting courses in Electropathy system and the persons practicing the same. Somewhat identical stand has been taken in the reply affidavits by respondents who have been conducting course in Alternative systems of medicine. Aforesaid Central Acts of 1956, 1970 & 1973 obviously do not deal with Electropathy or other Alternative systems of medicine. Existence of any other Central or State legislation regulating the said systems of medicine was not brought to their notice by any of the learned counsel appearing in the case. Thus, the submission in regard to there being no legal bar in conducting courses in Electropathy and for that matter any other Alternative systems of medicine and practicing them, is not without substance. The case was heard at the Delhi High Court.

In a more recent judgment on alternative medicine involving Prakash Shikshan Mandals Loknete ... vs. State Of Maharashtra Thru Dept. Of ... on 13 January, 2020. Per the case which had to do with Professional Educational Institution at the appropriate level of entry pathway for all stakeholders, including the University to have a clear idea of whether the teacher-student ratio is maintained, the students are imparted quality education by trained professionals. Ultimately, these students are going to practice the alternative medicine. These students would examine patients and prescribe for them the treatment and medicines. It is in these circumstances that eligibility for admission in section 3 falling in Chapter II clearly says that the eligibility conditions and requirements for admission to professional course at any Private Professional Educational Institution shall be such as may be noted by the Government from time to time, but shall not be less than those stipulated by the appropriate authority. Sub- section (2) of section 3 says that no student shall be admitted to a Private Professional Educational Institution unless the student possesses such educational or equivalent qualification as may be notified. Sub-section (3) of section 3 mandates that unaided institution shall admit students through a process as may be prescribed. The word "prescribed" is defined to mean prescribed by the rules. Sections 4 and 5 of this Act are relevant and read as under?:

Also in Kamurul Haque vs State Of Orissa on 2 January, 2017, the petitioner further contended that in Chhattisgarh, the Alternative Medical College is recognized by the Chhattisgarh Government and the same course was taught in the OMCAM, Hospital and Research Centre, Naharkanta and Indian Medical Council has also not accorded permission to those Colleges at Chhattisgarh since it is not coming under the purview of Indian Medical Council Act.

It is the contention of the Learned Counsel for the petitioner that the OMCAM, Hospital and Research Centre has a right to impart education on the alternative system of medicine and action of the State by lodging F.I.R. and interfering with the practice or education is in the teeth of fundamental rights guaranteed under Article 19(1)(g) of the Constitution of India. There is no prohibition in practicing alternative medicine or imparting education on alternative medicine or getting education in such medicine and it does not contravene the Indian Medical Council Act, 1956 and the OMCAM, Naharkanta has not issued any degree certificate and the University which has affiliated the institution can issue degree certificate and therefore, no offence under section 420 of the Indian Penal Code is made out.

Learned Counsel for the petitioner further placed reliance in a decision of the Hon'ble Madhya Pradesh High Court in the case of Dr. Mukesh Shrivastava vs. The State of M.P. wherein the Court held:

"9. Thus the only statutory provision which has been invocated to prohibit practice in alternative systems of medicine is under section 21 of the Act which in my opinion being contended to the Allopathic system of Medicine. I am of the opinion that respondent cannot take recourse to the aforesaid provision to stop practice in the alternative system of medicine. It is the stand of both sets of practitioner that they are practicing and imparting education in alternative systems of medicine which is not regulated by any of the statute and hence they cannot be stopped from carrying out the practice in alternative systems and teaching in the said system in view of Article 19(1)(g) of the Constitution of India. It is that Article 19(1)(g) of the Constitution of India gives right to all citizens to practice any profession, or to carry on any occupation, trade or business but in view of Article 19(6), it does not prevent the State Government from making any law relating to the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business."

"3. As per the directions of the Hon. Lucknow bench of the High Court of Judicature at Allahabad, the representation has been considered. It is clarified that the MH & FW Order No. R.14015/25/96-U & H(R)(Pt.) dated 25.11.2013 and No. V.25011/276/2009 - HR dated 05.05.2010 would be treated as instructions of the Government of India related to practice, education and research with regard to alternative systems of medicine like electropathy, electro-homeopathy, etc."

Another Karnataka judgment is the one involving Sri Anish Kumar K @ Anish Shetty vs. State Of Karnataka on 4 August, 2020. In this case, the contended by learned counsel for the petitioner during the course of his arguments by referring to the FIR recorded by the respondent police relating to the case in crime No.164/2020 that the petitioner is said to be arraigned as accused in the aforesaid crime is eligible to practise allopathy and prescribe allopathy drugs. The Indian Board of alternative Medicines has issued a certificate in the name of the petitioner to practice Indo - Allopathy Medicine. Therefore, the petitioner is qualified to practise Indo-Allopathy and prescribe the allopathy drugs.

According to the judgment, it is relevant to refer the allegations made in the complaint filed against the accused and so also, reflected in the FIR which came to be registered by the police in Crime No.164/2020 for the aforesaid offences. The complaint is filed alleging that on 20.12.2019, the complainant - InduShekar reddy had been to Sai Krupa Nursing Home situated at Garudacharpalya, Whitefield, Bengaluru for consulting with a Doctor as he was feeling uncomfortable. It is averred in the complaint that the

accused is not a qualified Doctor to practice as per the certificate issued by the Indian Board of Alternative Medicine and also to practice Indo - Allopathy medicine. But the counsel for the petitioner who referred in respect of his contention that document No.4 issued by the Electropathy Medico's of India (Central Board - India), Head Office: Bombay is a certificate issued to Dr.Anish R.Shetty, S/o Ravindra Shetty, R/o of "Sai Krupa" Majalaguthu, Kaup, Udupi, Karnataka and Document No.10 is the certificate issued by Indian Board of Alternative Medicines, affiliated with the Open International University for Complementary Medicines (Medicina Alternativa).

Whereas in this certificate of registration, it is relevant to refer the important directives stated therein. However, subsequent to the registration of crime against the accused, the case is still under investigation and moreover, the IO is required to collect the material documents and so also required to record the statement of witnesses. Therefore, I feel at this stage, it does not require any detail discussion while considering the bail petition filed by the petitioner as there are substance in the contention of the petitioner's counsel. Therefore, keeping in view of the contention as taken by the learned counsel for the petitioner and so also, the peculiar facts and circumstances of the case, it is opined that the accused is deserving for anticipatory bail.

In the State vs. Bikash Barai on 27 January, 2020, the Prosecution was required to prove that the accused was practising modern scientific system of medicine not being a Medical Practitioner/Practitioner as defined under Section 2 (7) of the Act. In order to prove the above, the Prosecution sought to prove its case by calling PW3. The witness deposed in the Court that the accused was registered with the Council of Alternative Systems of Medicines. Further, PW2 has proved that the accused was examining the patient and was practicing allopathy system of medicine. Signboards Ex.P1 (Colly) and medicines seized Ex. P2 (Colly) proved that the accused was practicing Modern System of Medicines. Further non- joining of public witnesses in the raiding team cannot prove to be fatal for the case of Prosecution as no doubt is raised about the veracity of testimony of PW2. Further, photographs of the clinic Ex.P3 (Colly) also connects the accused to the offence in question and bolsters the case of the prosecution. The evidence adduced in this matter points out unambiguously to the fact that the accused was registered to practice Alternative system of medicines, however, was found to have been practicing modern system of medicines without proper education to practice that and without obtaining proper license / registration from the concerned authorities.

The medicines/drugs were recovered from the State vs. Bikash Barai FIR No.136/2012 U/s 27 DMC Act PS South Campus Page No. 5/ 6 premises occupied by the accused in this case. The only defense put forth was that it was planted. However, the credibility of the witnesses to the recovery was not impeached and they withstood the test of cross-examination.

In Bhartiya Alternative Medical vs. The State of M.P (22 July, 2010), the gravemen of the argument of Counsel for the petitioner was that the decision of the Court rendered in M.P. No. 2018/92 decided along with several other petitions vide common order dated 19.3.1999. This Court opined that M.P. Ayurvigyan Parishad Adhiniyam, 1987 (hereinafter referred to as Adhiniyam, 1987) operates in the field of Allopathic System of Medicine not in the alternative system of medicine. This Court opined that the Electro Homeopathic System of Medicine is not regulated by the Adhiniyam, 1987. In the circumstances, it was held that prohibiting them to practice and impart education in the alternative system of medicine was impermissible.

Divya Yog Mandir Trust, Haridwar vs. Assessee on 5 January, 1995, this case also referred the survey report of US National center for complementary and alternative medicine (NCCAM) based on survey conducted in December, 2008, made available at page Nos. 193 to 196 of the paper book (assessee) as per which yoga has been recognized as a complementary and alternative medicine to prevent and treat disease. NCCAM defines CAM as a group of diverse medical and health care systems, practices and products that are not generally considered part of conventional medicines. NCCAM found that yoga was the sixth most commonly used alternative therapy in the USA during 2007, with 6.1% of the population participating. The said study states yoga has been used as supplementary therapy for diverse conditions such as cancer, diabetes, asthama and AIDS and the scope of medical issues where yoga is used as a complementary therapy continues to grow.

Also Section 28 of the Traditional Medicine Practice ACT, 575 stipulates that, A practitioner shall notify a coroner within twenty-four hours of a death which occurs on the premises of the practice.

Certificate of Registration is different from Medical Training

This is very important. In Ghana, there are many practitioners practicing traditional Alternative Medicine without any medical training, yet, they have been issued with Traditional Medicine Practice licenses to practice based on Act 575. Many are those in the public who are concerned by this practice and sometimes question the credibility of the industry. Practitioners possessing licenses issued by the Council sometimes confuse their licenses with their academic or medical training. I could remember sometime back while processing applications for admission of students for the Da Vinci College of Holistic Medicine Naturopathic programs, some students presented

curriculum and claimed to have their medical training by the Traditional Medicine Practice Council and they were bold to use the title "Dr". I could remember the president of Da Vinci College of Holistic Medicine once questions the credibility of the council and why these practitioners go about and advertise their practice without any medical or academic training in their professions. This is very disturbing! So for those practitioners with only TMPC license without any formal medical or academic training from an accredited institution, what is the position of the law?

Per **Section 9** of the Traditional Medicine Practice ACT, 575,

(I) A person shall not operate or own premises as a practitioner or produce herbal medicine for sale unless that person is registered in accordance with this Act.

(2) A person seeking full or temporary registration shall apply to the Registrar in the manner determined by the Board.

Section 10 which deals with qualification for registration asserts that (I) Where the Board is satisfied that (a) an applicant has adequate proficiency in the practice of traditional medicine and (b) the application has been endorsed by any two of the following:

(i) the district chairman of the Association;

(ii) the traditional ruler of the community;

(iii) the District Co-ordinating Director, it shall direct the Registrar to enter the applicant's name in the register of practitioners and issue the applicant with a certificate of registration on the payment of the prescribed fee by the applicant. (2) A person issued with a certificate under subsection (I) shall be known as a practitioner for the purposes of this Act.

The challenge with this section is the silent nature on educational or medical training of the practitioner before the board considers giving out license to practice. Per section 10(a) leaves a room for ambiguity on adequate proficiency in the practice of traditional medicine. The question here is how the board justifies the adequate proficiency without probably clinical training evidence or academic training. For instance, the WHO prescribes about 1500 minimum hours on clinical training for two-year Naturopathy training and over 2,500 for four-year naturopathic training.

In Sri. Gopichandra S/O Yellappa vs. The State of Karnataka, on 13 August, 2013, The petitioner was found practicing alternative medicines in a backward village called Kirawatti in Uttara Kannada district. Therefore, the Registrar of Karnataka Ayurvedic and Unani Medical Practitioners Board, Bangalore, lodged first information with the Sub-Inspector of Old Hubli police station. The matter was investigated and the final report was filed for the aforestated offences.

"The petitioner is before this Court and he has sought quashing proceedings in C.C.No.790/2000, inter alia, contending thathe is a bonafide medical practitioner and he has obtained certificate of registration from Indian Board of Alternative Medicines, Calcutta, and his certificate is further supported by letter addressed by the legal practitioner viz., Mr.Nemal Chand Samanta, M.Com. B.A. LL.B., Advocate & Legal Advisor for Indian Board of Alternative Medicines, Calcutta.

The court held that, "In the first place, this certificate of registration does not indicate that petitioner had undergone a medical training course or a medical certificate course or a diploma course in alternate medicine. In the second place, the registration certificate bears invisible seal of the Registrar of Board of Alternative Medicines, Calcutta. One may find it very difficult to locate the Registrar going by the address furnished in the blurred seal. In the third place, the legal advisor has no business to certify legality and validity of practice of alternative medicines by the petitioner. In the fourth place, petitioner is not a registered medical practitioner with the Karnataka Ayurvedic and Unani Medical Practitioners Board. In the circumstances, contention of the petitioner that the final report does not constitute offences alleged against him cannot be accepted. The petition is dismissed. It is made clear that the trial Court while deciding the case on merits shall not be influenced by the observations made herein". This is very interesting ruling for those who claimed to be registered by the Traditional Medicine Practice Council without any medical or academic training in their alternative medicine practice.

Also in the case of Dr. Sunil Kumar Jha & Anr vs The State of Bihar & Anr (7 March, 2018), the petitioners claim to be graduate(s) in the filed of alternative medicines from Indian Board of Alternati ve Medicine, Calcutta. The certificate of the petitioners are enclosed as Annexure-4 series. The petitioners sought recognition for their qualification by the Bihar Medical Council and also claimed registration under the Clinical Establishments (Registration and Regulation) Act, 2010 (hereinafter referred to as Patna High Court CWJC No.15027 of 2016 dt.07-03-2018 „the Act). The application of the petitioner for registration under the Bihar Medical Council Act, 1933 was rejected by the Registrar, Bihar Council of Medical Registration vide order passed on 02.08.2016 enclosed at Annexure 3 inter alia on grounds that it is only such of the system of medicine which finds mention in Schedule II of the Indian Medical Council Act which can be granted registration by the Council and since the Indian Board of Alternative Medicine is not included in the schedule. Hence, the Council is not authorized to grant registration. It is feeling aggrieved by such decision that the two petitioners are before this Court.

According to the writ petitioner before the Delhi High Court, the degrees and diplomas issued by these institutions was unauthorized and not recognized under any of the Acts referred to above and the institutions granting such degrees were unapproved. It is after serving notice on these institutions with no result forthcoming from the Government to curb the menace that the petitioner filed the writ petition in question. The Medical Council of India filed their affidavit and in which it was admitted that the provision contained in the Indian Medical Degree Act, 1916 and the Indian Medical Council Act, 1956 applied only to the field of Allopathy System of Medicine. It was further mentioned that the right to practice in Homeopathy was being regulated by the Homeopathy Central Council Act, 1973 while Patna High Court CWJC No.15027 of 2016 dt.07-03-2018 the Ayurvedic System of Medicine was regulated by the Indian Medicine Central Council Act, 1970. It was mentioned that the Electropathy/Electrohomeopathy System of Medicine was not covered by any of the enactments in question nor had been granted recognition nor there was any legislation regulating the same. The Medical Council of India also admitted in their affidavit that they had received complaints regarding the Indian Board of Alternative Medicines, which awarded degrees and diploma in Indo Allopathy, a medical system which is unheard in Allopathy Medicine System.

The Division of the Delhi High Court taking note of the seriousness of the issue raised by the public spirited person, examined the issue whether or not the institutions imparting degrees in Alternative Medicines were debarred under any law from running any medical course against which complaint had been made. On examination of the various provisions of the Indian Medical Council Act,1956, the Indian Medicine Central Council Act, 1970, the Homeopathy Central Council Act, 1973, the Indian Medical Degrees Act, 1916, the University Grants Commission Act, 1956, the Division Bench of the Delhi High Court observed as follows:

"On a conspectus of the provisions extracted above it may be seen that the persons possessing medical qualifications granted by universities or medical institutions included in Schedules I,II &III of aforesaid 1956 Act and enrolled on State Medical Register or Indian Medical Register alone can Patna High Court CWJC No.15027 of 2016 dt.07-03-2018 practice Allopathy system of medicine. Persons holding any medical qualification from a University, Board or Medical Institution included in Schedules II, III & IV of the said Act of 1970 and enrolled on State Register or Central Register only are eligible to practice Ayurveda, Sidha and Unani systems of medicine. Similarly, persons having medical qualifications granted by Universities, Boards or Medical Institutions included in Schedules II & III of 1973 Act and enrolled on State Register or Central Register alone are entitled to practice Homoeopathy. At the same time, as the law stands there seems to be no legal prohibition in granting diplomas and certificates for the courses conducted by respondents 10 to 16. "Our country has a large number of unemployed youths and it is not difficult to lure them by the institutes like respondents 10 to 16 as the issue of certificates/diplomas for practicing the systems other than the recognized one, is almost guaranteed by them. Judicial notice can be taken of the fact that such institutes do not possess proper infrastructure for teaching and training the students and they make misleading claims. These are run purely on commercial considerations and the efficacy of their systems in treating the patients is yet to be established scientifically. Therefore, in public interest functioning of the institutes like respondents 10 to 16 deserves to be checked and regulated by making legislation by the Central/State Governments. On the aspect of prescribing minimum standards for medical education etc. we may notice the provisions made in the aforesaid Acts of 1956, 1970 & 1973.

Turning to the advertisement appearing in Hindustan Times dated July 17, 1996, the learned judge held that, respondent No.12 claims that Council of Alternative System of medicine is recognized by the Department of Health & Family Welfare, Government of West Bengal and Accepted by the Medical Council of India respondent No.5. In the reply affidavit filed on behalf of respondent no. 5, it is denied that such an acceptance was accorded by it to respondent no.12. Claim as made in the said issue of the newspaper is thus not only false but also misleading. The right to carry on trade, occupation and profession does not carry with it any right to misrepresent. Patna High Court CWJC No.15027 of 2016 dt.07-03-2018 Considering the nature of the problem as is evident from the aforesaid discussion, "we issue the following directions":-

(1) The Central/State Governments shall consider making legislation prescribing:

1. grant of licenses to the existing and new institutes conducting courses in Electropathy and other alternative systems of medicine.
2. Minimum standards of education and checked on the functioning of such institutes on the lines set out in Sections 17, 18, 19 and 19A of the Medical Council Act, 1956:
3. Minimum qualification for getting admission in such institutes:
4. Conditions entitling these institutes to issue diplomas and certificates: and
5. Right to use the prefix 'Doctor' and to issue medical certificates to the patients by diploma/certificate holders from such institutes.
6. Respondent No. 10 shall forthwith delete the misleading statements printed on pages 47 and 50 of the prospectus issued by it.

7. Respondent no. 12 shall not make misleading claim in regard to its having been recognized by the Medical Council of India/respondent No.5 in the advertisements.
8. Adequate publicity through the media shall be given by the Government(s) informing general public about respondents 10 to 10 and similar other institutes not being recognized and affiliated with any of the Councils under aforesaid Acts of 1956, 1970 &1973 The operation of the order dated January 30, 1997 as modified by the order dated March 12, 1997 is extended further for a period of six months from today. Copy of this order be sent by the Registry to the Health Secretary, Government of India and the Chief Secretaries of All the States and Union Territories for doing the needful in the matter Petition is disposed of in terms of the aforesaid directions."

The Patna High Court CWJC No.15027 of 2016 dt.07-03-2018, the judgment of the Delhi High Court referred to above was appealed against by the Union of India in S.L.P.(Civil) No. 11262 of 2000 but was dismissed vide judgment and order passed by the Supreme Court on 24.11.2000.

It is rather surprising that the issue having been already addressed upon by the Delhi High Court and directions issued to the Union as well as the Chief Secretary of all States, for taking necessary steps in this regard for enacting legislation for regulating such courses and for curbing the menace, yet, as the records reflect, no steps have been taken by the respondents to address themselves on the issue in the light of the directions so present.

Be that as it may, in the nature of the circumstances accompanying the dispute raised, the refusal by the Bihar Council of Medical Registration to grant registration to the petitioners under "the Act" suffers no infirmity requiring indulgence. The writ petition is dismissed. This case was held at the Patna High Court.

In Thirumalai vs The State Rep by Its on 13 November, 2019, the petitioner is a Indo-Allopathy Doctor registered in Indian Board of Alternative Medicine in Registration No. IBAM/RMP/21178 dated 08.11.1996 and he was practicing in and from the date of registration for the past 11 years in Kancheepuram District. He would submit that the petitioner has been practicing allopathy medicine and treating the patients in acupuncture method without any complaint from the patients. He would submit that because of business rivalry, a false complaint has been given, based on which, on 14.11.2017, the Joint Director of Health service conducted an inspection at his premises and based on the complaint, the case has been registered for offences under Section 15 and 15 (3) of the Indian Medical Counsel Act. He would submit that the petitioner is not a quack and he was practicing as per the mandate given to him by the Indian Board or alternative medicine. He would submit that the central council of Homoeopathy have sent a representation to the Health Department of Tamil Nadu to allow the Doctors practicing in Hemoeopathy and Siddha medicine to use Stethoscope, B.P. Apparatus and Thermometer, which are the basic materials to diagnose the patient and use these apparatuses in rare cases. He would submit that the petitioner cannot be prevented from continuing those practice in the above clinic and that he is entitled for return of key. He would submit that the trial Court without considering these aspects dismissed the petition. http://www.judis.nic.in.

The brief facts of the case is that on the complaint given by the Joint Director of Health Service, Kancheepuram that the petitioner was practising Allopathy medicine without any qualification, a case was registered by the respondent police in Crime.No.564 of 2018 against the petitioner for offences under Section 15 and 15 (3) of the Indian Medical Council Act, 1956. Based on the complaint, inspection was conducted and it was found that the petitioner was practicing allopathy medicine in violation of Rules of Indian Medical Council Act. The certificate and the prescription sheet were recovered from the premises at No.50/43, Kullappan Street, Kanchipuram. The respondent, after recovering the certificate, the prescription sheets and other medicines and after closing the premises, had handed over the key of the premises to the trial Court.

"This Court is of the opinion that there is no necessity that the premises to be kept under lock and key without being used and that the petitioner also cannot be made to unnecessarily pay the rent without the premises being used and thereby key of the premises be handed over to the owner of the premises on a petition being filed by the petitioner impleading the owner of the premises. In view of the above, the revision http://www.judis.nic.in. Crl.RC.No.1038 of 2019 is disposed of granting liberty to the petitioner to file a petition a fresh impleading the owner of the premises and on such petition being filed the trial Judge shall conduct due enquiry and hand over the keys of the premises at No.60, Rayappan Kuttai Street, Kancheepuram to its owner. With this observation, revision stands disposed of. Crl.RC.No.1038 of 2019"

On Accepting Medical certificates from only Medical Doctors

Do organizations accept medical certificates such as physical fitness certificate from herbal and alternative practitioners' facilities in the event that patients visit these centers or only medical doctors have the absolute right to issue medical certificates to patients to their employees? One landmark case addresses this discriminatory act. In P.V.Manohar Panth vs. The State Bank Of Hyderabad (31 January, 2014),

the Court rules that, considering the nature of medical certificate produced by the petitioner, this Court finds an important, as well as interesting, aspect whether the employees in government establishments or public sector undertakings, the respondent bank being one, are required to produce medical certificates issued only by the allopathic doctors, to the exclusion of all other doctors practising alternative branches of medicine.

In this regard, insofar as the allopathic doctors are concerned, the Indian Medical Council Act, 1956, provides for the constitution or reconstitution of the Medical Council of India, and the maintenance of the Medical Register. In fact, once an allopathic doctor with a basic qualification of M.B.B.S, registers himself with MCI, he gets certain privileges under Section 27 of the said Act, which is as follows: Privileges of Persons who are enrolled on the Indian Medical Register:

Subject to the conditions and restrictions laid down in this Act, regarding medical practice by persons possessing certain recognized medical qualifications, every person whose name is for the time being borne on the Indian Medical Register shall be entitled according to his qualifications to practice as a medical practitioner in any part of India and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments or other appliances, or any fees to which he may be entitled.

So long as the name of the medical practitioner is reflected in the register maintained by the Medical Council of India, in terms of the MCI Regulations, 2000, the said medical practitioner can be called a Registered Medical Practitioner (R.M.P).

As for the alternative medicines, the Parliament has also brought out an enactment namely Homoeopathy Central Council Act, 1973, an enactment analogous to the Indian Medical Council of Act, to regulate the activities of the practitioners of that branch of medicine. In fact, under the said enactment as well, there is a particular provision, which is in pari materia with Section 27 of the Indian Council Act. In fact, Section 26 of the Homeopathy Central Council Act, 1973 speaks of the privileges of persons, who are enrolled under the Central Registration of Homeopathy, and it is as follows:

(1) Subject to the conditions and restrictions laid down in this Act regarding practice of Homoeopathy by persons possessing certain recognized medical qualifications, every person whose name is for the time being borne on Part I of the Central Register of Homoeopathy shall be entitled according to his qualifications to practice Homoeopathy in any part of India and to recover in due course of law in respect of such practice any expenses, charges in respect of such practice any expenses, charges in respect of medicaments of other appliances or any fees to which he may be entitled.

A perusal of the above provisions would amply indicate that the privileges that have been extended in both categories are identical in nature. "As such, in the absence of any statutory limitation imposed in accepting the medical certificates issued by registered medical practitioners of Homeopathy, it cannot be said that the respondent bank has acted well within its powers in terms of the regulations governing its employees to reject the sick leave applications on a simple premise that the medical certificates were not issued by an allopathic doctor".

The court further referred to a decision of this Court rendered by a learned Single Judge in Dr. Mohd. Abdul Wahab v. State of A.P., through its Secretary Transport, Roads and Buildings and Ors.

In the said case, the Government issued G.O.Ms.No.25, Transport, Roads and Building (Tr. II), dated 16.02.1992, declaring that the Registered Medical Practitioners possessing the degree (MBBS) in allopathy or any equivalent qualification of any University in India alone are empowered to issue Medical Certificates for the purpose of obtaining the learners' licence and conductor's license. The petitioner therein, who is an RMP in Homoeopathy, questioned the validity of the above G.O before this Court. In that context, the learned Single Judge of this Court has held that Homoeo and Unani Registered Medical Practitioners have no special qualification or any study in such course to issue physical fitness certificates i.e., with regard to the applicants suffering from other ailments like hypertension, epilepsy, vision and/or colour blindness etc. Having held thus, this Court has upheld the said G.O.

Insofar as the facts of the present case are concerned, in the first place the respondent bank has not produced any regulation or administrative instruction invalidating the medical certificates issued by the registered medical practitioners of the alternative branches of medicine. On the other hand, declaring general fitness on examination of a supposedly healthy person is different from treating a patient of general maladies and ailments. Interesting, here this ruling: "No particular branch of medicine can arrogate to itself the sole privilege of exclusive expertise. Thus, a person cannot be curtailed from taking recourse to alternative medicine. In such an event, if a person avails himself of treatment of any branch of alternative medicine such as ayurveda or homoeopathy, putatively holistic, he can only be expected to produce certificate issued by that treating doctor alone. As such, in my considered opinion, the stand of the respondent bank cannot be sustained to the effect that only of Medical Certificate issued by a Registered Medical Practitioner in allopathy should be taken into account but no other certificates."

It is stated by the Learned Counsel for the petitioner that pending the petition, the petitioner got superannuated and retired from service. As such, now it is an issue of paying the difference of amounts by reconverting the ordinary leave to that of medical leave as had been done originally.

For the foregoing reasons, this petition is allowed by declaring the proceedings in F.No.R.I./GR.I/1372 dated 11.10.2007 issued by the 2nd respondent, as well as those issued on 28.11.2007, as illegal and arbitrary. Consequently, the respondent authorities are directed to reconvert the ordinary leave of 103 days to sick leave and accordingly release the salary withheld earlier, apart from settling other benefits, if any, in favour of the petitioner. This case was heard at Andhra High Court.

Can a practitioner hold himself as "doctor of Naturopathy" without being conferred?

Very important as there are many practitioners in Naturopathic Medicine as well homeopathy and the rest who claimed to be doctors in Naturopathic Medicine or others without any sound medical training. In fact, Naturopathic medicine is a highly revered medical system which needs rigorous training from an accredited government universities or institutions. In fact, Doctor of Naturopathic Medicines are offered between four to 5 years with clinical training for one year. But can one claimed to be a doctor of Naturopathy without any training?

One landmark case addresses this, in Kalkisinh Imanallah Duleray vs. State of Gujarat & Ors. (17 April, 2001), the petition professed to be a petition under Articles 226/227 of the Constitution of India at the instance of the petitioner who professed to be a "Practitioner of Naturopathy". Unfortunately, the petition as presented to the Court, as conceived by the petitioner and as argued by the learned Counsel for the petitioner, is a complex mixture of apprehensions and misconceived notions.

On the one hand, it is contended that as a simple practitioner of a simple basic science in tune with nature, and professing to apply the principles of nature to the human body in order to maintain and restore good health, would not amount to "practice of medicine" within the meaning of any law applicable to such persons. On the other hand, it appears that the petitioner is bent upon calling himself as a "doctor", is bent upon professing and advertising himself as a "Doctor of Naturopathy", and at the same time, appears to be desirous of setting up a professional educational institution for impartation of knowledge and ultimately a professional degree, whereby students who were enrolled to such an institute would be entitled to call themselves as "Doctors of Naturopathy". Unfortunately, the petitioner has mixed up the two concepts viz., practice of naturopathy as against a training institute or an academic institution for Naturopathy where professional degrees would be awarded.

So far as the first concept is concerned, viz., "practice of naturopathy", it would appear that the same would not require any professional qualification under any law for the time-being in force.

5. In this context, it is relevant to consider Section 2 of the Gujarat Medical Practitioners' Act, 1963, which reads:

"The expression "to practice any system of medicine" with all its grammatical variations and cognate expression means to hold oneself out as being able to diagnose, treat, operate or prescribe medicines or any other remedy or to give medicine for any ailment, disease, injury, pain, deformity, or physical condition or by any advertisement, demonstration, exhibition or teaching to offer or undertake by any means of method whatsoever to diagnose, treat, operate or prescribe medicine or any other remedy or to give medicine for any ailment, disease, injury, pain, deformity or physical condition

Provided that a person who

i. Practice Physio-therapy or Electro-therapy or Chiropody or Naturopathy or Hydropathy or Yoga healing; or shall not be deemed on that account only to practice any system of medicine."

Proviso (iii) to Section 2 thereof clearly indicates that practice of physiotherapy or electro-therapy or chiropody or naturopathy or hydropathy or yoga healing shall not be deemed on that account only to practice any system of medicine.

Thus, so long as a person strictly restricts himself to the application of the principles of nature, natural health and principles of naturopathy, without resorting to any other drugs, methods of diagnosis or cure by scientific instruments utilized in other medical systems of treatment, mere practice of naturopathy shall not be deemed to be practice of any system of medicine. It would, therefore, appear that the petitioner would be entitled to practice naturopathy, provided he sticks to this field and does not encroach upon any other field of treatment or cure, whereby it could be said or amount to practice of any system of medicine.

The other aspect of the matter is that the petitioner appears to have conferred upon himself the title of "Doctor". Admittedly, this is not a title conferred upon him by any recognized institution or authority recognized in law, nor is it result of having passed out from any lawfully recognized institution imparting knowledge and training in any field of medicine, let alone the field of naturopathy. As the petition discloses, the petitioner is merely a practitioner of naturopathy over a long period of years, and apparently on that

account atone, he feels he is qualified to confer upon himself the title of "Doctor". This cannot be recognized by any Court, particularly since the request in this regard is made with a view to shield the petitioner from possible future legal action. On the petitioner's own assertion in para 3 of the petition, the only qualification claimed by the petitioner is that he is registered as a Member of the Indian Nature Cure Practitioners' Association. This name itself suggests that this is an association of persons who have come together, obviously for mutual benefit, and issue certificates of membership of the association. However, such Certificate of Membership can only be to the extent that they are members of the Nature Cure Practitioners' Association, and nothing beyond that. Mere registration as a Member, or issuance of a certificate of membership of such an institution cannot possibly amount to acquiring any particular or specific qualification, as may be required under any other law for the time-being in force, and or to confer upon such a member a right to hold out, profess and declare to the world at large that he is a "Doctor". This would be misleading the public and would be a gross abuse to the science of naturopathy as well. This is very interesting!

Reliance is sought to be placed upon a decision of the Calcutta High Court in the case of The Council of Alternative Systems of Medicine & Anr. v. State of West Bengal & Ors., reported in 1991 (2) CLJ 173. The said decision, after having considered the scope and effect of Indian Medical Council Act, 1956 and Indian Medical Degrees Act, 1916, particularly considers the scope and effect and application of the system of therapy popularly known as "Naturopathy". In this context, it was laid down that "alternative systems of medicine" would include a system devoid of medicine made by chemicals. It is the system to obtain a cure by controlling diet, the senses and breathing. If any disease is cured by the practice of Yoga, it cannot be said that such a system contravenes any of the provisions of law as it is no offence to obtain training in Yoga and/or to advise people how to correctly follow the system of Yoga. In short, the system of medicine which is devoid of any therapy by chemicals or drugs, and where the human body system is assisted to obtain a cure by controlling diet, the senses and breathing, does not contravene any statute. However, as already noted hereinabove, the definition "to practice any system of medicine" as found in Section 2 of the Gujarat Medical Practitioners Act, 1963, defines that the practice of naturopathy ipso facto shall not be deemed on that account only, to be a practice of any system of medicine.

It would, therefore, appear that so long as the petitioner confines himself to the practice of Naturopathy, and the application of the principles thereof, and does not resort to drugs, chemicals and practices which are followed, applied and practiced in other professional systems of medicine, such practice in itself would not be violation of any law.

The position, however, is different when the petitioner, by way of alternative submissions made in the petition (albeit by a very confused presentation of his own desire) submits that he is also entitled to create, establish or run an institution such as an Institute of Naturopathy or some such organization, where professional training is imparted to the students of such institution, confer some sort of degree on those students who are successful, and to confer upon such successful students some sort of certificate or degree whereby they can call themselves "Doctors". Such a situation at best must remain in the realm of desire of the petitioner. If at all such a system of training can be set up by a recognized institute for the purpose, it is for the petitioner to approach the appropriate authorities under the appropriate scheme of legislation and to obtain the necessary recognition and/or affiliation as may be required under the appropriate law. It is not for the Court to educate the petitioner as to how the petitioner's desires can be achieved, inasmuch as this Court does not exercise advisory jurisdiction.

Even otherwise, when the prayers made in the petition are considered, it is found that paragraph 14(B) seeks a writ or direction of this Court "for quashing and setting aside the interrogatory activity of respondent to carry on the petitioner's business of "Naturopathy Doctor". In this context, it is sufficient to observe that if the appropriate investigating authority such as the police go about their lawful business in investigating an F.I.R., which may have been lodged, and if for this purpose an inquiry is made with the petitioner as to the legal right of the petitioner to describe himself as a "Doctor", mere investigation of this nature cannot be quashed and set aside. In any case, no -specific grievance, has been made in the petition that the petitioner is facing any criminal charges for "practice of naturopathy". It is a very different thing, if in future, the petitioner is required to face charges for holding himself out as a qualified doctor, by using the phrase "Doctor" as a prefix to his name, suggesting that he is a qualified practitioner, and recognized as such, by an appropriate statute as a "Doctor of Naturopathy".

Prayer "C" made in the petition does not require any further consideration in view of the affidavit-in-reply filed by the Under Secretary, Health and Family Welfare Department. The petitioner has prayed that if at all any registration is required so far as doctors of naturopathy are concerned, the Nisargopachar Board may be issued directions to grant such registration, and also to grant recognition to the institute of naturopathy , "which are running at present without any registration". From this prayer, it would appear that the petitioner requires the Court to issue directions to the concerned respondents that teaching and/or academic institutions imparting professional

training in naturopathy should be granted recognition, so that the graduating students who may turn out can legitimately be called "Doctors". However, the respondents point out that Nisargopachar Board is currently not active in the field, but the functions thereof are being handled by the Gujarat Board of Ayurvedic and Unani System of Medicines, Gujarat State.

In the context of prayer (C) it merely requires to be noted that the Gujarat Ayurved University Act, 1965 establishes "The Gujarat Ayurved University". Section 2, sub-section (4) defines "Ayurvedic system of medicine" which includes the Nisargopachar system. Section 27 deals with affiliation, recognition and approval of colleges applying for affiliation to the University (for the broader purpose of conducting the necessary courses to impart instruction in Nisargcpachar) and all questions incidental to the recognition of such institutes and all consequential academic and administrative requirements. In other words, if the petitioner is serious as regards his intention to set up a College for Naturopathy, it would appear that the aforesaid legal remedy is available to him under the appropriate statute provided he makes the necessary application, as the first step in that direction. However, unless the petitioner moves and conducts himself in the appropriate and prescribed manner and satisfies the necessary technical, administrative and procedural formalities, this is just not possible unless the petitioner applies. This Court has neither the power nor the jurisdiction to give any mandate in the matter. It is open to the petitioner to take recourse to such provisions as aforesaid and/or any other provisions that may be applicable to the facts of the case.

"In the premises aforesaid, I find that there is no prayer made which can be granted. There is, therefore, no substance in the present petition and the same is accordingly dismissed. Notice is discharged with costs. Petition dismissed". This case was held at the Gujarat High Court.

Another case, Sanjib Das vs State of W.B. & Ors on 27 November, 2013, also answers this question. In this case, the Indian Board of Alternative Medicines through its president has affirmed an affidavit stating that although the system of alternative medicines has not been recognized by any Central law or State law no law prohibiting its user is there in West Bengal. Although Dr. is used as prefix the term alternative medicines is used after the name of the practitioner in their letter heads which clarifies the position entirely, and that, therefore, there is no scope for misrepresentation if a prefix Dr. is used. It is also contended that Dr. is used to denote that the practitioner of alternative medicines is distinguished from quacks. The writ petition received the consideration of the Division Bench from time to time. By an order dated 12th March, 2010 the respondent Nos. 14 and 15 and similarly situate persons were restrained from using the title Doctor or Dr, in abbreviated forms with their names. Counsel for the petitioner contends that the respondent No. 14 and 15 and for that matter any person similarly situate as that of the respondent Nos. 14 and 15 are not entitled to use the prefix Doctor or Dr. to their names. He contends that none of the respondent Nos. 16 to 21 are recognized institutes within the meaning of the Indian Medical Council Act, 1956. Certificates issued by the respondent Nos. 16 to 21 are not recognized in any of the schedules to the Indian Medical Council Act, 1956. The petitioner relies on section 6 of the Indian Medical Degrees Act, 1916 to contend that user of doctor or Dr. without requisite permission, is a punishable offence. Counsel for the respondent Nos. 14 and 15 contends that they obtained valid certificates from the respondent no. 16. Having obtained such valid certificates, they are entitled to practice alternative medicines. No law prohibits them from practicing alternative medicines. The respondent Nos. 14 and 15 contends that they have treated various patients as also obtained patent in respect of a particular medicine. They also contend that the members of the public are satisfied with the quality of medical relief given by them. The respondent No. 16 has used an elaborate affidavit. In such affidavit the respondent No. 16 has highlighted the various accolades that it received in its field from various institutions and personalities. It also relies on international practice.

"Our attention has also been drawn to section 6 of the Indian Medical Degrees Act, 1916. The alternative medicines practiced by persons to whom diplomas, degrees, certificates or licenses have been given by the respondent Nos. 16 to 21 may receive favourable acceptance by institutions and personalities. Such acceptance does not in any manner confer a right on such persons to use the prefix doctor or dr. to their name. A person who has obtained a medical qualification in terms of the Indian Medical Council Act, 1956 and whose name appears in the register of medical practitioners as contemplated under the said Act of 1956, is entitled to use the prefix doctor or dr.. To allow any other person to use such prefix and to practice medicines would be against the scheme of the Indian Medical Council Act, 1956 and the Indian Medical Degrees Act, 1916".

Also, in Surendran V.V. vs State Of Kerala on 28 February, 2009, the petitioner who is stated as a medical practitioner having obtained Ext.P1 certificate issued by the Indian Board of Alternative Medicines with the system of medicine shown as "Indo-Alopathy". The said certificates describes him as Dr.Surendran, though the petitioner does not have any such claim calling him to be a 'Doctor' as in the writ petition and the affidavit filed before this Court. The complaint is with regard to the alleged harassment at the hands of Police and according to the petitioner, Police is frequently visiting the clinic run by the petitioner at the

place in question and is creating havoc, causing much inconvenience to him and also his patients. The learned Government Pleader appearing for the respondents submits on instructions, that the averments and allegations raised in the writ petition are quite wrong and unfounded and that there was no such instance on the part of the W.P.(C) No. 524 of 2012 respondents at any point of time. It is also added by the learned Government Pleader that, going by the contentions raised in the writ petition and also the materials produced, the petitioner does not have any certificate of 'exemption' granted by the Government under Section 38 of the Travancore Cochin Medical Practitioners Act, 1953; without which no person who is practicing the alternative system of medicine is liable to pursue such practice in the State. If at all the petitioner is having a valid certificate enabling him to have such practice, it is for the petitioner to approach the concerned authorities under the above enactment applying for 'exemption' from registration and it is for the State Government to grant such 'exemption' based on the credentials.

The learned counsel for the petitioner however submits that, the petitioner is not liable to take any registration under the Travancore Cochin Medical Practitioners Act and that Ext.P1 Certificate itself permits the petitioner to have such practice. "We find it difficult to accept the said proposition. We are not given to understand as to what actually the basic qualification of the petitioner is, what the duration of study is,

W.P.(C) No. 524 of 2012 what is the actual system of medicine and what are the medicines that are being administered by the petitioner to the patients. If the petitioner is not actually entitled to practise in the State as per the laws prevailing in the State, it is always open for the concerned respondents and other authorities of the State to take appropriate action against the petitioner. So also, it is open for the petitioner to approach the concerned authorities to establish his rights and credentials and to pursue the practice, if he is actually entitled to have such practice based on Ext.P1.

We find that this is not a fit case where any interference is to be made by this Court, more so, in the light of the submission made by the learned Government Pleader that there is no harassment at all. In the above circumstance, interference is declined and the Writ Petition is dismissed". This case was held at the High Court of Kerala.

In Ghana, the Traditional and Alternative Medicine Practice Council of the Ministry of Health now has a column in their application form for tittles conferred on by practitioners

Alternative Medicine Courses recognition

The appellant sought information on 3 points seeking whether courses in alternative medicine granted by Indian Board of Alternative Medicine are recognized by MCI and other relevant information. Mrmohan Lal vs Medical Council of India on 23 September, 2015 sought to address this. The appellant filed an RTI application on 15.05.2014, seeking the above information. On not receiving any response from the CPIO within the prescribed time period, the appellant filed first appeal. The FAA did not dispose of the first appeal.

The respondent stated that the appellant had addressed his RTI application to the old address of MCI and therefore, it never reached the MCI office. He stated that appellant in his letter dated 01.09.2015 had attached his RTI application and on receipt of hearing notice from the Commission, point wise reply has been sent to the appellant on 22.09.2015. He submitted a copy of the same before the Commission.

DECISION

After hearing the respondent and on perusal of record, the Commission finds that the original RTI application dated 15.05.2014 never reached MCI as it was addressed to the old office of MCI. Now, on receipt of appellant's letter dated 01.09.2015, information has been provided to the appellant on 22.09.2015. No further action is required in the matter. The appeal is disposed of accordingly.

In Sukhdev Chand vs State Of H.P. on 20 July, 2007, vision petition has been filed against the judgment of learned Sessions Judge, Una in Criminal Appeal No. 24/1999, decided on 4-7-2001 whereby, he has upheld the judgment of the Chief Judicial Magistrate, Una in Criminal Complaint No. 61-1-1997, decided on 21-8-1999 whereby the petitioner-accused has been convicted for having committed an offence punishable under Section 27(B)(ii) of the Drugs, and Cosmetics Act, 1940 (hereinafter referred to as the Act) and sentenced him to undergo simple imprisonment for one year and to pay fine of Rs. 5,000/- and in default of payment of fine to further undergo simple imprisonment for 6 months. The charge against the petitioner accused in the present case is that he is not a qualified doctor and does not fall within the definition of registered medical practitioner under Rule 2(ee) of the Drugs and Cosmetics Rules (Rules for short) and, therefore, he had no authority to sell or prescribe any drug.

The court ruled that: "Therefore, though I am clearly of the view that the petitioner accused had no right to practice modern system of medicine and I am also clearly of the view that he did not fall within the definition of registered medical practitioner as given in Rule 2(ee) of the Drugs Rules, the prosecution has miserably failed to prove the fact that the petitioner had violated the provisions of Section 18(c) of the Act. The prosecution has failed to prove that the petitioner had exhibited, sealed, stocked or offered for sale any medicine. Keeping in view the above discussion, I am

of the considered opinion that both the Courts below committed a grave error in convicting the petitioner-accused only on the ground that he was not authorized to practice in the modern scientific system of medicines. The petitioner-accused is, therefore, acquitted of the offence for which he was charged and the conviction and sentence passed against him is set aside. The bail bonds of the petitioner-accused are discharged. It is, however, made clear that the petitioner accused is not entitled to practice the modern system of medicine and if he does so, he may be dealt with in accordance with the relevant law", this case was held at Himachal

Pradesh High Court

In an Application For Anticipatory ... vs Unknown on 9 August, 2017, apprehending arrest in connection with Bidhannager Police Station FIR No. 99 of 2017 dated 25.05.2017 under Sections 419/420/465/467/468/471/472/474/475/120B/34 of the Indian Penal Code, corresponding to GR case no. 425 of 2017 pending before the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas, the petitioners being the secretary and the president of Indian Board of Alternative Medicine, having its registered office at 80, Chowringhee Road, Kolkata - 700020, have filed this application under Section 438 of the Code of Criminal Procedure for anticipatory bail.

Mr. Bhattacharya learned senior advocate appearing on behalf of the petitioners contended that the activities of the Indian Board of Alternative Medicine were held to be legal and the institution is registered under the West Bengal Societies Registration Act, 1961 bearing registration no. S/68765/1991-92. Mr. Bhattacharya further contended that CO/CR No. 13597(W) of 1996 under Article 226 of the Constitution of India is still pending in the High Court and in fact a criminal case against the Council of Alternative System of Medicine and another was quashed by this Court in a decision reported in 1991 (2) CLJ 173 (the Council of Alternative Systems of Medicine and Anr. Vs. State of West Bengal and Ors).

Mr. Bhattacharya further contended that the allegations levelled in the first information report are not applicable to the present petitioners and the activities of the present petitioners as secretary and president of the Indian Board of Alternative Medicine are not subject to scrutiny in terms of the first information report filed by the defacto-complainant. Mr. Bhattacharya also contended that the petitioners be admitted to bail in terms of Section 438 of the Code of Criminal Procedure.

Mr. Sur, learned Additional Public Prosecutor appearing on behalf of the State contended that in the name of pursuing the cause of alternative medicine, the petitioners are in fact issuing fake certificates of MBBS/MD degrees against payment of huge amount by some persons, who have not even passed class-X examination. The petitioners are responsible for creating fake doctors and thereby the petitioners are not only cheating innocent persons but also endangering the entire health service of public at large. Sufficient materials have been collected against the petitioners and their custodial interrogation is required to unearth the racket involved in such issuance of fake MBBS/MD certificates.

At the outset, it may be mentioned that legality of the Board/Council is not subject matter of this application. Therefore, the submission of Mr. Bhattacharya regarding legality of the institution does not affect the legality of the prosecution against the present petitioners. Moreover, in paragraph 24 of the application, the petitioners have themselves admitted that in fact the Indian Board of Alternative Medicine never claimed itself as a council, recognized by the Medical Council of India (MCI). That clearly goes to show that the Indian Board of Alternative Medicine had or has no capacity to issue certificate of MBBS/MD degrees.

Having considered the submission of learned advocates and after going through the case diary, we find sufficient materials against the present petitioners. Having regard to the complicity of the petitioners in the case under reference, we are of considered view that the petitioners are not entitled to any order under Section 438 of the Code of Criminal Procedure in the context of their role in the alleged offences.

Prayer for anticipatory bail stands rejected. Accordingly, the CRM 5503 of 2017 is disposed of. Urgent photostat copy of this order be supplied to the parties, if applied for, upon compliance with all requisite formalities. (Debi Prosad Dey, J.) (Dipankar Datta, J.)

In Dr Syed Mohammed Ziaulla vs The State of Karnataka on 3 September, 2014, the petitioner has got a certificate from the Indian Board of Alternative Medicines registered by the Government of West Bengal and that he is duly qualified to practice in the Alternative Systems of Medicines as a medical practitioner. It is his case that he has established a clinic and has completed several years of service and after coming into force of the Act, he made an application vide Annexure-E, seeking registration of his medical establishment, under Section 3, but, so far the said application has not been considered and order passed. The petitioner contends that on account of inaction on the part of the concerned authority, he has been subjected to harassment by the Law Enforcement Authorities. In identical circumstances, WP.No.39743/2014 was disposed of on 20.08.2014 vide order at Annexure-G. The 2nd respondent was directed to consider the application filed by the petitioner therein, within a period of six weeks from the

date of receipt of a copy of the order. Learned AGA does not dispute the fact that the claim of the petitioner is identical to the case considered and decided on 20.08.2014 vide order at Annexure-G.

In the circumstances, this writ petition is allowed in part and the 2nd respondent is directed to consider the application of the petitioner, vide Annexure-E, with expedition and within a period of six weeks from the date a copy of this order along with an authenticated copy of Annexure-E, said to have been submitted earlier, is produced by the petitioner. Sri Narendar G., learned AGA, is permitted to file memo of appearance within four weeks.

In the state of Karnataka, it appears most of the cases were allowed in favour of the alternative medicines practitioners as well such:

1. Dr Mahesh Murthy T.M vs The State Of Karnataka on 28 October, 2014
2. Dr Adil Navaz S vs The State Of Karnataka on 3 September, 2014
3. Dr. Somashekar Swamy T M vs The State Of Karnataka on 22 August, 2014
4. Dr Govindarajalu U vs The State Of Karnataka on 4 September, 2014

IBAM degrees Accepted for Medical Establishment in Karnataka

In the case of Dr. Pradip Kumar Dutta vs The State of Karnataka (25 July, 2014), the petitioner claimed to hold a Bachelor of Alternative System of Medicines, a degree conferred by the Indian Board of Alternative Medicines. His grievance was that his application for the registration of the Private Medical Practitioner has remained unconsidered. The petitioner's learned advocate, Sri N. R. Naik submitted that the matter is fairly covered by this Court's order, dated 21.4.2014 passed in W.P.No.13869/2014, which came to be disposed of with a direction to the respondent No.2 to consider the application filed by the petitioner in the said case.

Sri H.V. Manjunatha, the learned Additional Government Advocate appearing for the respondent Nos.1 to 3 and 5 submitted that the copy of the application for the registration is not produced as one of the annexures with the petition. The learned Counsel for the petitioner submitted that the application was online. Following the Court order dated 21.4.2014 passed in W.P.No.13869/2014, the Court held "I dispose of this petition with a direction to the respondent No.2 to consider the petitioner's application for the registration under the provisions of the Karnataka Private Medical Establishment Act, 2007 in accordance with law, as expeditiously as possible and in any case within an outer limit of four weeks from the date of the production of the certified copy of today's order. It is made clear that no opinion, whatsoever, is expressed on the merits of the claims of the petitioner. No order as to costs".

There are many cases which had been won by practitioners as well:

1. Dr. Amit Mujumder vs The State Of Karnataka on 16 July, 2014
2. Dr Madhusudhan Biswas vs The State Of Karnataka on 25 July, 2014
3. Dr. Ripon Roy vs The State Of Karnataka on 16 July, 2014
4. Dr K.S. Anand vs The State Of Karnataka on 14 July, 2014
5. Dr Subeer Biswas vs The State Of Karnataka on 14 July, 2014
6. Dr. Manoj Mujamder vs The State Of Karnataka on 16 July, 2014
7. Dr. Hamza M vs The State Of Karnataka on 14 July, 2014
8. Dr S K Biswas vs The State Of Karnataka on 25 July, 2014
9. Dr L Chandrashekar vs The State Of Karnataka on 18 July, 2014

Alternative Practice Advertisement

Also in Dr. M.S. Khan vs Delhi Medical Council Room No. 368 on 2 July, 2011, the plaintiff is a doctor of alternative medicines registered with Indian Board of Alternative Medicines. The plaintiff also claims to have three years' diploma in Naturopathic Medicines and Surgery issued by All Indian Chikitsa Sciences and Health Organization. He is also registered with the organization. The plaintiff has stated to have been practicing in the field of alternative medicines in Delhi under the name and style of "M/s MKS Medical Centre" which subsequently on 11.09.2009, was rechristened as "M/s MKS Medical Alternative Centre". On 27.06.2010, defendant no. 1 issued notice no.

DMC/AQ/F3A/SCL/2/2010/97865 alleging that the plaintiff had been practicing Allopathy without having registration with the Delhi Medical Council. After giving a hearing to the plaintiff, order dated 13.08.2010 was passed whereby it was held that the plaintiff was not possessing requisite medical qualification. Thus, the plaintiff was directed to stop the practice and close down "M/s MKS Medical Centre". It is stated that the plaintiff has been exercising his fundamental right of practicing in the field of alternative medicines and as such cannot be restrained from doing so. It is stated that the medical centre was being run in the name of "M/s MKS Alternative Medicines Centre" and not in the name of "M/S MKS Medical Centre".

The Court has perused the documents placed on record. Vide order dated 26.10.2010 the Hon'ble High Court of Delhi held that: "This Court has also perused the reply filed by the Petitioner before the

DMC. The Petitioner's case appears to be that he is a practitioner of alternative system of medicine and that although he initially named his clinic as MKS Medical Centre, he subsequently changed its name to MKS Alternative Medical Center from 11th September 2001. The Petitioner claimed that he was practicing in Indian Board of Medical Alternative Medicine and did not prescribe modern medicines, injection etc. A certificate issued to the Petitioner by the Indian Board of Alternative Medicine is enclosed with the reply."

"This Court is not convinced with the above response of the Petitioner. The documents produced by the Petitioner show that for a long time he was running a clinic under the name of MKS Medical Center. The photograph of the name board outside the clinic shows that the word alternative does not appear. There is an inspection report as recently on 12th May 2010 by the Directorate of Health Services, GNCT of Delhi which shows that the Petitioner was still prescribing allopathic medicines."

In view of the order of the Hon'ble High Court of Delhi, the order of defendant dated 13.08.2010 has been held to be devoid of any infirmity. By way of the present suit the plaintiff has in an oblique manner sought reliefs yet again against the order of Delhi Medical Council. The consequence of reliefs sought by way of the present suit being granted would tantamount to interfering with the order of the Delhi Medical Council on which the Court of competent jurisdiction has already been given its findings.

The court held that "judicial propriety and also public interest to also pass any order to the advantage of the plaintiff as prayed for and allow the ignorant patients to be jeopardized by the allopathic treatment offered by the plaintiff. The plaintiff is hereby rejected. The plaintiff is directed to pay a cost of Rs. 5000/ for having preferred a frivolous litigation despite the order of the Hon'ble High Court of Delhi".

Insurance Coverage

In A.Muthu, S/O Alwar, Door No.27, vs United India Insurance ... on 10 June, 2014, the contention of the 1st respondent/1st opposite party is that naturopathy treatment is excluded from the health policy taken by the appellant/complainant and hence the appellant/complainant is not entitled to the claim. The appellant/complainant on the other hand had contended that complainant has taken only ayurvedic treatment for his knee pain and not naturopathy treatment as alleged by the respondent/opposite party. Further the appellant/complainant contended that the claims made by him were repudiated by the 1st respondent/1st opposite party vide Ex.A4 not on the ground that he has taken naturopathy treatment and the 1st respondent/1st opposite party has taken this plea in their written version which is not sustainable. Although naturopathy and Ayurveda are alternative medicines, both are entirely different fields of study/practice. In the present case the appellant/complainant has taken ayurvedic treatment and not naturopathy treatment which has been excluded in the health policy. "Hence we are not inclined to accept the contention of the 1 st respondent/1st opposite party".

Verification of practitioner's background

In Mann Singh Bhatti vs Punjab Public Service Commission ... on 4 October, 2017, advertisement dated 10.12.2016 (Annexure P-1) was issued by the respondent Commission for recruitment to the Punjab Civil Services (Executive Branch) from the source of Register A-II (Ministerial Group a & B). Petitioner applied as in-service candidate. One of the requisite and essential qualifications is a graduation degree.

1 of 2 Petitioner claims to possess a degree certificate of Alternative System Medicines issued by the Indian Board of Alternative Medicines, Kolkata. The respondent Commission has sought to verify such qualification possessed by the petitioner. Accordingly, a communication was addressed to the employer i.e. the Water Supply & Sanitation Department, State of Punjab, where the petitioner is currently serving.

Placed on record at Annexure P-6 is a letter dated 25.7.2017 addressed to the Registrar, Indian Board of Alternative Medicines, Kolkata on the subject of verification of the degree possessed by the petitioner. The response from the institute from where the petitioner has acquired the qualification is contained at Annexure P-7 and to the following effect:

The essential and basic qualification possessed by the petitioner from the Indian Board of Alternative Medicines, Kolkata having not been verified till date and the authenticity of the same still being under a shadow of doubt, the prayer made in the instant petition cannot be accepted. Petition, accordingly, is dismissed.

RECOMMENDATION

Based on the corpus of judicial authorities regarding alternative medicines practice, education and many other relevant matters, the writer proposes the following for consideration of the Traditional and Alternative Medicine Practice Council to improve the regulation of the practice:

i. There should be policy direction on minimum standards for medical education for practitioners.
ii. The Traditional and Alternative Medicine Practice Council should initiate further policy to proscribe the grant of licenses to practitioners without medical or academic training in traditional and alternative medicine
iii. There should be enforcement on the Professional Qualifying Examination as being done to other medical and allied health workers.

iv. Foreigners should be scrutinized and be require to pass Professional Qualifying Examination before issuing them with licences.
v. The title "doctor" should only be given to those who have graduated from degree programs recognized by the Council as it pertains in other jurisdictions.
vi. From the Common Law jurisdictions, qualified Practitioners can issue medical certificates such as physical certificates to employees and so on.
vii. The Traditional and Alternative Medicine Practice of the Ministry of Health should initiate steps for recognition of accepted forms of alternative modalities based on science in Ghana. Not all practices should be accepted.
viii. There should be minimum qualification for getting admission into such institutes in Ghana.
ix. Practitioners should be wary of misleading statements and claims.
x. The Traditional Medicine Practice Council should, once in a while in the public interests, publish names of qualified practitioners in the newspapers.
xi. There should be adequate publicity through the media to sensitize the general public about the work of the Council.
xii. Practitioners should stay within their scope of practice.

CONCLUSION

From the above, it is glaring that there are multitudes of judicial authorities in other Common Law jurisdictions in respect of practice of Alternative Medicine from where the Ghanaian Courts could draw from when called upon to determine similar cases in Ghana. The practice and education in Alternative Medicines are jurisdictional specific. Ghana needs to choose the best practice to help in streamlining the industry to save the many vulnerable patients who go to these centers partly due to the minimum side effect purported by the industry.

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