



REPORT NO.

86

**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON  
HEALTH AND FAMILY WELFARE**

**EIGHTY SIXTH REPORT**

**On**

**THE HOMOEOPATHY CENTRAL COUNCIL (AMENDMENT) BILL,  
2015**

**(MINISTRY OF AYUSH)**

*(Presented to the Rajya Sabha on 30<sup>th</sup> July, 2015)*

*(Laid on the Table of Lok Sabha on 31<sup>st</sup> July, 2015)*



**Rajya Sabha Secretariat, New Delhi**  
**July, 2015/ Sravana, 1937 (SAKA)**

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सत्यमेव जयते

**Rajya Sabha Secretariat, New Delhi  
July, 2015/ Sravana, 1937 (SAKA)**

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## COMPOSITION OF THE COMMITTEE (2014-15)

1. Shri Satish Chandra Misra - **Chairman**

### RAJYA SABHA

2. Shri Ranjib Biswal
3. Shri Rajkumar Dhoot
- %4. Shri Vijay Goel
- ^5. Dr. Bhushan Lal Jangde
5. Shrimati B. Jayashree
6. Dr. R. Lakshmanan
7. Shrimati Kahkashan Perween
- &8. Dr. Vijaylaxmi Sadho
9. Chaudhary Munvvar Saleem
10. Dr. T.N. Seema
- @11. Shri Jairam Ramesh

### LOK SABHA

12. Shri Thangso Baite
13. Dr. Subhash Bhamre
14. Shri Nandkumar Singh Chouhan (Nandu Bhaiya)
15. Dr. Ratna De (Nag)
16. Dr. Heena Vijaykumar Gavit
17. Dr. Sanjay Jaiswal
18. Dr. K. Kamaraj
19. Shri Arjunlal Meena
20. Shri J. J.T. Natterjee
21. Shri Chirag Paswan
22. Shri M.K. Raghavan
23. Dr. Manoj Rajoriya
24. Shri Alok Sanjar
- #25. Dr. Mahesh Sharma
26. Dr. Shrikant Eknath Shinde
27. Shri Raj Kumar Singh
28. Shri Kanwar Singh Tanwar
29. Shrimati Rita Tarai
30. Shri Manohar Untwal
31. Shri Akshay Yadav
- \*32. Shrimati Ranjanaben Bhatt
- \*\*33. Dr. Pritam Gopinath Munde

### **SECRETARIAT**

Shri P.P.K. Ramacharyulu	Joint Secretary
Shri R.B. Gupta	Joint Secretary
Shri Pradeep Chaturvedi	Director
Shrimati Arpana Mendiratta	Joint Director
Shri Dinesh Singh	Joint Director
Shri Pratap Shenoy	Committee Officer

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% resigned from the membership of the Committee w.e.f. 2<sup>nd</sup> December, 2014

^nominated as a member of the Committee w.e.f. 19<sup>th</sup> December, 2014

&ceased to be member of the Committee w.e.f. 28<sup>th</sup> November, 2014.

@ nominated as a member of the Committee w.e.f. 28<sup>th</sup> November, 2014.

# ceased to be member of the Committee w.e.f. 9<sup>th</sup> November, 2014.

\*nominated as a member of the Committee w.e.f. 22<sup>nd</sup> December, 2014.

\*\* nominated as a member of the Committee w.e.f. 22<sup>nd</sup> December, 2014.

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Health and Family Welfare, having been authorized by the Committee to present the Report on its behalf, present this Eighty-sixth Report of the Committee on the Homoeopathy Central Council(Amendment) Bill, 2015\*.

2. In pursuance of Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred\*\* the Homoeopathy Central Council(Amendment) Bill, 2015 ( **Annexure I**) on the 8<sup>th</sup> May, 2015 as introduced in the Rajya Sabha on the 6<sup>th</sup> May, 2015 for examination and report by 7<sup>th</sup> July, 2015. Subsequently Hon'ble Chairman granted extension of time for presentation of Report on the Bill upto 31<sup>st</sup> July, 2015.

3. The Committee held five sittings during the course of examination of the Bill, i.e., on 12<sup>th</sup> May, 25<sup>th</sup> May, 30<sup>th</sup> June, 13<sup>th</sup> July and 27<sup>th</sup> July, 2015.

4. The Committee took oral evidence of the Secretary, Ministry of AYUSH along with the President, Central Council of Homoeopathy at its sitting held on 25<sup>th</sup> May and 30<sup>th</sup> June, 2015.

5. The Committee also had the benefit of the views of certain experts at its sitting held on 13<sup>th</sup> July, 2015.

6. During its interactions with the representatives of Ministry of AYUSH and experts, the Committee was assisted by the officials of Department of Legal Affairs and Legislative Department.

7. During its study visit to Coimbatore-Ooty-Bengaluru conducted from 8<sup>th</sup> to 12<sup>th</sup> June, 2015, the Committee heard the views of several stakeholders and representatives of the State Governments of Karnataka and Tamil Nadu.

8. The Committee expresses its appreciation to the officials of Ministry of AYUSH, Department of Legal Affairs and Legislative Department for appearing before the Committee and furnishing the requisite material and information in connection with the examination of the Bill. The Committee wishes to express its thanks to the experts for placing their considered view before it.

9. The Committee considered the draft Report and adopted the same on 27<sup>th</sup> July, 2015.

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

**NEW DELHI;**  
**27<sup>th</sup> July, 2015**  
*Sravana 5, 1937 (Saka)*

**Satish Chandra Misra**  
**Chairman,**  
*Department-related Parliamentary*  
*Standing Committee on Health and Family Welfare*

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\* Published in Gazette of India Extraordinary Part II Section 2, dated 6<sup>th</sup> May, 2015.

\*\* Rajya Sabha Parliamentary Bulletin Part II, No.54233, dated 8<sup>th</sup> May, 2015.

## REPORT

The **Homoeopathy Central Council (Amendment) Bill, 2015** (hereinafter referred to as the **Bill**) was introduced in the Rajya Sabha on the 6<sup>th</sup> May, 2015 and referred to the Department related Parliamentary Standing Committee on Health and Family Welfare on the 8<sup>th</sup> May, 2015, for examination and report thereon.

2. The Statement of Objects and Reasons (SORs) appended to the Bill is reproduced below:-

"The Homoeopathy Central Council Act, 1973 was amended in the year 2002, to check growth of sub-standard colleges, increase in admission capacity and starting of new courses in such colleges. The permission of the Central Government is mandatory for establishing new colleges or starting new courses of study. The existing provision in the Homoeopathy Central Council Act is, however, not enabling the Central Government to stop admissions in colleges, which are not conforming to standards specified in the regulations made under the said Act. Due to this, quality of Homoeopathy education is being compromised.

The Homoeopathy Central Council (Amendment) Bill, 2015 seeks to amend the Homoeopathy Central Council Act, 1973, —

(a) to make provision for obtaining prior permission of the Central Government by all Homoeopathy Medical Colleges for admission of new batches of students in any course of study or training (including post-graduate course of study or training); and

(b) to provide the aforesaid permission by the Central Government for a period of five years."

The proposed amendment will ensure quality of Homoeopathy education leading to better healthcare through Homoeopathy system of medicine.

3. The Ministry of AYUSH in its background note made the following submissions.:-

- "The Homoeopathy Central Council (HCC) Act, 1973 ( Act No.59 of 1973) was enacted to establish a Central Council of Homoeopathy, to provide and maintain standards of Homoeopathy Medical education, to maintain a Central Register of Homoeopathy practitioners and recommend to the Central Government for recognition and withdrawal of medical qualifications.
- The Homoeopathy Central Council (HCC) Act, 1973 was amended in the year 2002, and came into force w.e.f., 28.01.2003 with an objective to curb the mushroom growth of sub-standard colleges and to prevent a fall in the standards

of education. Central Government was vested with the powers to grant permission to open new Homoeopathy colleges, open new course or to increase seats.

- Since the amendment of the HCC Act in the year 2002, Central Government has granted permission for setting up of 14 new Homoeopathic medical colleges, increase of admission capacity in 08 colleges and starting of new or higher courses of studies in 21 colleges.
- Central Council of Homoeopathy (CCH) had notified the relevant regulations pertaining to education from time to time relating to course, curriculum of Under graduate and Post graduate Courses. Further, the minimum standards of requirements in the Homoeopathy medical colleges had been stipulated in the Homoeopathy (Minimum Standards of Education) Regulations, 1983. However, as the requirements of Homoeopathy(MSE)Regulations, 1983 could not be achieved by the colleges, CCH has worked out and proposed a draft regulations to the present day requirement and advancement and the same had been notified on 8th March, 2013 as HCC (Minimum Standards of Infrastructure for a Homoeopathic College & Attached Hospital) Regulations 2013 by superseding earlier MSE regulations, 1983.
- As per the provisions of section 19 of HCC Act, 1973, the Central Government has the power to withdraw recognition of the degree being awarded by such colleges which do not



conform to the standards prescribed by CCH as per relevant Regulations. In order to take action under section 19 of the Act on the basis of inspection reports, the specified date has to be ascertained by the Central Government so that the recognized medical qualification granted before such specified date only will be treated as recognized and the medical qualification granted after such specified date will be de-recognised qualification.

- Therefore, to conclude the specified date, for such medical institution/ college, the fresh admission of new batch of students is required to be stopped and only existing batches of the students are to be allowed to appear in the final examination and internship.
- Accordingly, the then Department of AYUSH during the year 2011-12, had withdrawn the recognitions of the degree being awarded in respect of (i) Purulia Homoeopathy Medical College, Purulia, (ii) Chandola Homoeopathy Medical College, Rudrapur, (iii) Rajiv Gandhi Homoeopathy Medical College, Indore, (iv) Raipur Homoeopathy Medical College, Raipur and (v) Maharana Pratap Homoeopathy Medical College, Raipur, with a prospective date.
- Out of those five colleges, one college namely, Chandola Homoeopathy Medical College, Rudrapur, had approached the Hon'ble High Court of Uttarakhand and got permission to take admissions during the year 2011-12. The Hon'ble

High Court in its judgements dated 2.4.2012 in W.P No.1228/ 2011 had mentioned that "Section 19 of the Act does not deal with stopping of admission of any course for any academic session". Further it was also mentioned that "Regulation 3 read with Regulation 6 of the Homoeopathy Regulation 1983 does not provide any provisions for stopping the admission". The same view had been agreed by the Double Bench in Special Appeal No.92/2012 order dated 23.07.2012. The Ministry has filed an SLP, but the same was dismissed.

- Even, the then Law Officer, late Shri Goolam E Vahanvati, Attorney General for India, vide his note dated 28.3.2012, had mentioned that, "there is no provision under which permission can be granted or denied to undertake admissions in the forthcoming year. Section 12A of the Act deals with establishment of new medical institutions and new course of study. It does not contemplate grant of permission to make admissions year after year". Further, the Law Ministry also in its opinion rendered vide note dated 5.6.2012, was of view that, "on the question of putting a restriction on the admission is concerned, as there is no enabling provision in the Parent Act, as such, if the department, so desires, the enabling provisions for putting a restriction on the admissions may be got incorporated in the Parent Act by way of an amendment in the Parent Act".

- Therefore, in the absence of enabling provisions in the Act for stopping admissions in such colleges which do not have the minimum norms as specified under the Homoeopathy Regulations, the de-recognition of the degree being awarded by such colleges under Section 19 of the Act cannot be implemented, unless fresh intake of students is stopped in these colleges so as to provide quality education to the aspirants of Homoeopathy education, who intends to pursue Homoeopathy as a Profession.
- As per the HCC(MSR) Regulations, 2013, all colleges have to comply with the major norms of the said regulations relating to hospital functioning and teaching staff so as to get conditional permissions for undertaking admissions till 2014-15. Further, they have to comply with all the norms of the said regulations in total by December, 2014 to get permission for five years or to face the action stipulated under Section 19 of the HCC Act, 1973 for derecognizing the degree being awarded to such colleges.
- Therefore, a general amnesty for non-enforcement of the implementation of the said regulations was granted to all the existing colleges for the academic years 2013-14 and 2014-15 as the enabling provision in the parent act for stopping admissions in the existing colleges is lacking.
- In the Indian Medicine Central Council (IMCC) Act, 1970, which governs the education of Ayurveda, Siddha and Unani systems of medicine, for both existing and new

colleges, Section 13 C was incorporated in the year 2002, which regulates admissions in the existing colleges year by year. Whereas the same provision is lacking in HCC Act, 1973 and therefore, at present, only existing Homoeopathy Colleges are out of purview of such exercise due to lacuna in the existing Act.

- Therefore, in order to overcome the situation of allowing sub-standard colleges to continue to take admissions year after year, irrespective of not having the requisite facilities required for imparting quality education in Homoeopathy Medical Colleges, the Ministry has proposed amendments in the existing sections of 12A and 12 B of the HCC Act, 1973.
- This amendment in the Act, will make provisions relating to granting permission by Central Government to all the existing Homoeopathic Medical Colleges for continuing the course/ courses, so as to ensure that Homoeopathy education is given only through colleges which can impart quality education. At the same time, provision to give permission for five years to the colleges which conform to the prescribed standards has been incorporated.
- The Central Government permission to undertake annual admissions is being made mandatory for all the existing Homoeopathy Colleges and also provision to give permission for five years to the colleges which conform to the prescribed standards has been incorporated. This amendment will ensure quality Homoeopathy education

leading to better healthcare through Homoeopathy system of medicine."

#### **Oral Evidence of the Secretary, AYUSH**

4. The Secretary, AYUSH, during the course of his evidence before the Committee on the 25<sup>th</sup> May, 2015, informed the Committee that though the Homoeopathy Central Council Act, contained provisions for de-recognition of degree granted by any existing institution, it was lacking in stopping grant of permission to make admissions year after year, etc. In view of the said lacunae, the Ministry had contemplated the amendment of the Act by inserting following two provisions in the Amendment Bill of 2015 as the lacunae allowed the homoeopathy colleges to continue with their 'business as usual' approach undermining the standards of education in the existing colleges and hence the quality of Homoeopathy education was being compromised :- (a) to make provision for obtaining prior permission of the Central Government by all Homoeopathy Medical Colleges for admission of new batches of students in any course of study or training (including post-graduate course of study or training); and (b) to provide the aforesaid permission by the Central Government for a period of five years. He was further of the view that the proposed amendment would assist in ensuring quality of Homoeopathy education being delivered by all the existing Homoeopathy colleges leading to better healthcare through Homoeopathy system of medicine.

5. The President of Central Council of Homoeopathy, who was also present during the evidence, submitted that there was no need for amendment in the present Act as Section 19 of the Act took care of taking action against Homoeopathy colleges not conforming to the standards. However, the Secretary, Ministry of AYUSH was of the

opinion that Section 19 was not sufficient to stop colleges, not conforming to the prescribed standards as per the Homoeopathy Central Council Act from taking admissions. To strengthen his viewpoint, the Secretary cited the case of Uttarakhand High Court which, while considering the plea of a Homoeopathy College, had observed in its judgment that "Section 19 of the Act does not deal with stopping of admission of any course for any academic session". Thereafter, the representative of Legislative Department made clarifications on the said amendments made in the existing Section 12A and 12B of the HCC Act, 1973. After some deliberations, the Committee felt that there was ambiguity about the additions being made by way of amendments to HCC Act which could lead to more confusion and litigation. The Committee directed the Secretary, Ministry of AYUSH and representative of Legislative Department to examine all the issues and clarify the position in a month's time.

6. During the course of his evidence before the Committee on the 30<sup>th</sup> June, 2015, the Secretary, Department of Health and Family Welfare, who was also in-charge of Ministry of AYUSH in the absence of the Secretary (AYUSH) clarified the issues raised in the meeting held on 25<sup>th</sup> May, 2015. The Secretary was of the view that Section 19 of the Act which deals with withdrawal of recognition to Homoeopathy colleges is long winded in view of the fact that the procedure involves approval of State Governments, etc. and by the time withdrawal is finally granted, four-five batches of admissions would have taken place thereby leading to leaving the students in a lurch who had taken admission in such colleges. He further stated that since permission of the colleges was being dealt under Section 12A which deals with permission of establishing new medical institutions, new course of study, etc., the

amendment which has been proposed in Section 12A is appropriate as it provided for mandatory permission of the Central Government for admission in colleges. This would ensure maintenance of standards in homoeopathy colleges and the amendment would result in the logical implementation of Section 19 by stopping admission of fresh batch of students in such colleges.

7. In order to *inter-alia* acquaint itself with the entire spectrum of views on the proposed amendments, the Committee visited Coimbatore, Ooty and Bengaluru from 8<sup>th</sup> to 12<sup>th</sup> June, 2015 on the Homoeopathy Central Council (Amendment) Bill, 2014.

8. The representatives of State Governments of Tamil Nadu and Karnataka and other stakeholders whom the Committee met during the course of study visit agreed with the proposed amendments in the said Bill, and felt that these would improve the quality and standard in Homoeopathy education.

9. Copy of the study note and comments of the Ministry on the issues raised during the visit are at **Annexures- II** and III respectively.

10. During the course of the meeting held on 13<sup>th</sup> July, 2015, the Committee heard the views of Dr. V.K. Gupta, Ex-Principal, Nehru Homoeopathy Medical College, New Delhi; (ii) Dr. A.K.Jaiswal, Sr. Medical officer, In-charge of CGHS Wellness Centre, Kali Bari Marg, New Delhi; and (iii) Dr. Shib Narayan Jana, Sr. Lecturer, Dr. B.R. Sur Homoeopathic Medical College on the Homoeopathy Central Council (Amendment) Bill, 2015. Dr. V.K. Gupta highlighted that the proposed amendments in Section 12A and 12 B which deal with permission for establishing new medical institution, starting new course of study, etc., were necessary to regulate the Homoeopathy education in the country . On being asked about whether the proposed amendments would

suffice, he agreed to the same. Thereafter, the Committee heard views of Dr. Shib Narayan Jana who was of the view that provisions, as exists in Medical Council of India (MCI) or Central Council of Indian Medicine (CCIM) Rules, which deals with year on year recognition for courses could be incorporated in the present Bill. Dr. Jana also pointed about certain anomalies as regards placement of provisions in different chapters and was of the view that the present opportunity should be taken to rectify all the previous shortfalls/pitfalls present in the Principal Act and the amendments proposed therein. Thereafter, Dr. A.K. Jaiswal stated that after going through the various chapters, sections and sub-sections of the Parent Act and its amendment effected in 2002 and other regulations it had been noted that the Section 19, dealing with the withdrawal of recognitions, would be most appropriate place for incorporation of the proposed clauses for stopping admission in the fresh batches of forthcoming academic sessions in the colleges, not adhering to the prescribed norms.

11. The Committee in its tenth Report on the Homoeopathy Central Council (Amendment) Bill, 2005 which was presented to Parliament on 29<sup>th</sup> July, 2005 had made recommendations on various clauses related to structure and functioning of Homoeopathy Central Council namely, to amend the act to define Homoeopathic Medical College, to nominate ex-officio members, to seek permission for existing colleges, to fix tenure of elected/nominated members of the Council, to remove President and Vice-President, to dissolve the Executive Committee of the Council and to give directions to the Council in public interest. On being asked about the fate of the said Bill and the amendment proposed therein the Ministry of AYUSH vide their OM dated 7<sup>th</sup> July, 2015, informed that the Union Cabinet in its meeting held on the 4<sup>th</sup> January, 2005 had



approved the proposal for amendments in the HCC Act, 1973. The Ministry further stated as under:

*“The Homoeopathy Central Council (Amendment) Bill, 2005 was introduced in the Rajya Sabha on the 23<sup>rd</sup> March, 2005 and the same was referred to the Parliamentary Standing Committee on Health & Family Welfare on the 19<sup>th</sup> April, 2005 for examination and report. This Committee on 29<sup>th</sup> July, 2005 in its 10<sup>th</sup> Report submitted its observations and recommendations.*

*Further, the Indian Medicine and Homoeopathy Pharmacy Bill-2005, was proposed to constitute a Central Pharmacy Council to regulate the education and practice of Pharmacy in Indian Systems of Medicine and Homoeopathy. The proposal was then approved by Union Cabinet on 23<sup>rd</sup> June, 2005. Accordingly, a Bill namely, the Indian Medicine and Homoeopathy Pharmacy Bill-2005 was introduced in the Rajya Sabha on 23<sup>rd</sup> August 2005. The Bill was referred to the Department-Related Standing Committee on Health and Family Welfare for examination on 24<sup>th</sup> August, 2005. The Standing Committee presented its 18<sup>th</sup> Report, dated 28<sup>th</sup> July, 2006 on the Bill and recommended amendments/modifications.*

*While the Department was considering the observations of Parliamentary Standing Committee of Health and Family Welfare, the proposal of Department of Health and Family Welfare for establishing an overarching body namely, “National Commission for Human Resources in Health (NCHRH)” was introduced. As the Department of AYUSH had felt that it may also follow suit to set up a similar overarching body in the same manner as the above Bill of Department of Health and Family Welfare, the said Bill was not pursued.*

*The NCHRH Bill, was referred to the Parliamentary Standing Committee on Health and Family Welfare for examination. The Standing Committee on Health and Family Welfare submitted its 60<sup>th</sup> Report on 'The National Commission for Human Resources for Health Bill, 2011' on October 30, 2012. The Department of Health and Family Welfare has not pursued further with the proposed Bill. Therefore, the Ministry of AYUSH decided not to pursue with the idea of setting up of National Commission for Human Resources for AYUSH and to re-examine the pending Bills of 2005.*

*It may be pertinent to mention herein that the Homoeopathy Central Council (Amendment) Bill, 2005 pending in the Rajya Sabha contains amendments with respect to tenure of membership of the members of the Central Council of Homoeopathy, directional powers of the Central Government and provision for regulating existing colleges. The instant proposal for amendment of sections 12A and 12B were not part of the said Bill of 2005.*

*The instant proposal of amendment Bill, 2015 is to make provisions relating to granting permission by Central Government to all the existing Homoeopathic Medical Colleges for continuing the course/ courses, so as to ensure that Homoeopathy education is given only through colleges which can impart quality education. Looking into the importance of education, the Bill, 2015 has been introduced in the Rajya Sabha. After the 2015 amendment Bill is passed by Parliament and notified after getting the assent of the President, the pending Bill, 2005 shall be withdrawn and a fresh comprehensive amendment Bill shall be proposed."*

## Clause-by-Clause Examination of the Bill

12. During the course of the examination of the Bill the Committee took note of the concerns, suggestions and amendments as put forth by various experts/stakeholders. Committee's observations and recommendations contained in the Report reflect an extensive scrutiny of all the viewpoints put forth before it, replies and comments received from the Ministry. The amendments proposed to the said Bill are discussed in the succeeding paragraphs:-

I. (a) Clause 2(A) - proposes to amend Section 12 A(1)(b) of the Act.

Section 12 A(1)(b) is reproduced below.

*"Notwithstanding anything contained in this Act or any other law for the time being in force,-*

\* \* \* \*

(b) *No Homoeopathic Medical College shall-*

\* \* \* \*

(ii) *Increase its admission capacity in any course of study or training (including post-graduate course of study or training)*

*Except with the previous permission of the Central Government obtained in accordance with the provisions of this section."*

(a) Clause 2(A)(a)- proposes to insert the word "or" at the end of sub-clause (ii) of Section 12A (1)(b).

The insertion of the word "or" is intended to facilitate inclusion of another clause in Section 12 A (1) (b).

## Stakeholders' views

13. All the stakeholders who appeared before the Committee, agreed to the above proposal.

#### **Committee's recommendation**

**14. The Committee agrees to the proposed insertion of the word "or".**

**(b) Clause 2(A) (b) -** *Proposes to insert the following sub-clause (iii) after sub-clause (ii) of Section 12A (1) (b).*

*"(iii) admit a new batch of students in any course of study or training (including post-graduate course of study or training)."*

#### **Ministry's comments**

15. There have been procedural difficulties in the implementation of Section 19 which deals with the withdrawal of recognition of degrees in colleges and the Government is of opinion that in the eventuality of action under Section 19, along with the proceedings of withdrawal of recognition, it will be prudent to deny the college admissions of fresh batch of students.

16. Section 12A provides for granting permission of the Central Government for (a) setting up of a new college (b) open new or higher course of study (c) increase of admission capacity of Homoeopathy Colleges. It does not have provision for permission of the Central Government for taking admissions by the Colleges. Hence the insertion of sub-clause (iii) to Section 12A(1)(b) has been proposed.

#### **Stakeholders' views**

17. All the stakeholders' were in favour of the proposed amendment.

#### **Recommendation of the Committee**

**18. The Committee observes that conformation to prescribed standards of homoeopathy education has been compromised due to**

legal infirmities in the governing statute. In the light of judicial pronouncements brought to the notice of the Committee, it agrees with the Ministry's contention that Section 19 of the Principal Act is not sufficient to stop colleges not conforming to prescribed standards as per the Homoeopathy Central Council (Minimum Standards Requirement of Homoeopathic Colleges and attached Hospital) Regulations 2013 from taking admissions. The Committee, therefore, agrees with the Ministry's proposal for insertion of clause (iii) after clause (ii) of Section 12A(1)(b). In the same vein, the Committee would recommend that the oversight of maintenance of standards should be done with the utmost transparency and there should be a credible and vibrant appeal mechanism in place so that minor technical and procedural defaults are not made a basis for harassment and questionable practices and genuine grievances of homoeopathy medical institutions are addressed swiftly within set timelines

(c) **Clause 2(A)(c)**– *Proposes to insert the following proviso in Section 12A 1 (b)*–*“Provided that the previous permission to admit a new batch of students under sub-clause (iii) may be obtained for a period of five years, subject to the provisions of this Act.”*

### **Ministry's Comments**

19. The proposed amendment is consequential to the amendment proposed in clause 2(A) (b) i.e. insertion of provision requiring prior

permission of the Central Government of admitting a new batch of students.

### Stakeholders' Views

20. All the Stakeholders' were in favour of the proposed amendment

### Committee's Recommendation

21. The proviso proposed at Clause 2(A)(c) provides for granting permission for five years for admission of new batch of students. On being pointed out that the proviso gives an impression that the Government will have no power to interfere till five years are over, even though the standards get weakened after one or two years and that the provision for giving a one-time clearance for a long period of five years without having the flexibility for conducting mid-term appraisals is a weak law, the representative of Ministry of AYUSH during evidence on the 30<sup>th</sup> June, 2015 submitted that Sections 17 and 18 of the Parent Act provide for conducting of inspections and visitations by the Homoeopathy Central Council at any point of time. The representative, however, clarified that once the proposed amendment is passed and the Act notified, the relevant regulations will be amended to clearly delineate that the Council can inspect at any time within the period of five years. In its post evidence submissions, the Ministry also stated that "Colleges granted permission for five years shall be subjected to periodic visitation and

inspection by the Council as per the provisions of the Act to ensure that standards are maintained".

22. The Committee is satisfied with the explanation given during evidence and also in the post evidence reply that the Central Council of Homoeopathy has the power to conduct inspections and visitations at any time within the period of five years. However, the relevant regulations will have to be amended to provide for the same. The Committee, accordingly, recommends that the relevant regulations may be amended to clearly depict and capture the spirit of the proposed proviso, once the proposed amendments are notified.

23. The Committee agrees to the proposed amendment being consequential to the amendment proposed by clause 2(A) (b).

II. **Clause 2(B)** - *proposes to substitute clauses (a) (b) &(c) of sub-section (7) of Section 12A of the Act by the following:-*

(i) Clause (a)

Existing provision

*"(a) whether the proposed medical institution or the existing medical institute seeking to open a new or higher course of study or training , would be in a position to offer the minimum standards of medical education as prescribed by the Central Council under section 20".*

### Proposed substitution

*(a) whether the proposed medical institution or the existing medical institution seeking to open a new or higher course of study or training (including post-graduate course of study or training), or to increase its admission capacity or to admit a new batch of students in any course of study or training (including post-graduate course of study or training), is in a position to fulfill the minimum standards of medical education under this Act;*

#### (ii) Clause (b)

##### Existing provision

*“(b)whether the person seeking to establish a medical institution or the existing medical institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources. “*

##### Proposed Substitution

*“(b) whether the person seeking to establish a medical institution or the existing medical institution seeking to open a new or higher course of study or training (including post-graduate course of study or training), or to increase its admission capacity or to admit a new batch of students in any course of study or training (including post-graduate course of study or training) has adequate financial resources under this Act.”*

#### (iii) Clause ( c)

##### Existing provision

*“(c) whether necessary facilities in respect of staff, equipment, accommodation, training, hospital and other facilities to ensure proper*



*functioning of the medical institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;"*

#### Proposed Substitution

*"(c) whether necessary facilities in respect of staff, equipment, accommodation, training, hospital and other facilities to ensure proper functioning of the medical institution or conducting the new or higher course of study or training (including post-graduate course of study or training), or increase in admission capacity or to admit a new batch of students in any course of study or training (including post-graduate course of study or training) have been provided or would be provided within the time-limit specified in the scheme."*

#### Ministry's Comment

The proposed substitution in clauses (a) to (c) of sub-section (7) of Section 12 A are consequential to the amendment proposed in Section 12 A (1) (b).

#### Stakeholder's view

All the stakeholders have supported the proposed amendment.

#### Recommendation of the Committee

**24. Since the substitutions proposed in the clauses (a) to (c) of Section 12A (7) are in the nature of consequential amendments, the Committee agrees to the substitution.**

**Clause 2 of the Bill is accordingly adopted without any changes.**

**III. Clause 3** - *proposes to insert sub-section (4) after sub-section (3) in Section 12B, which is reproduced below:*

*“12B(4) Where any medical institution admits a new batch of students in any course of study or training (including post-graduate course of study or training) without the previous permission of the Central Government in accordance with the provisions of section 12A, the medical qualification granted to any student of such medical institution shall not be deemed to be a recognized medical qualification for the purposes of this Act.”*

#### Ministry Comments

The proposed amendment is consequential to the amendment proposed in Section 12 (A) (1) (b) of the Act.

#### Stakeholders Views

All the stakeholders' who appeared before the Committee were in favour of the proposed amendment.

#### **RECOMMENDATION OF THE COMMITTEE**

**25. The Committee feels that the proposed Clause 3 has not captured the legislative intent articulated in the amendments proposed in clause 2(A)(b). The words "any student of such medical institution" give an impression that all the students of the defaulting institution, which has started new course without permission, will be punished by way of derecognizing their qualification which is unwarranted. It is a cardinal principle of penal law that there should**

be no ambiguity whatsoever about what constitutes an offence so that no disputes of interpretation arise. The Committee feels that the ambiguity in the proposed Clause 3 would also lead to arbitrariness in the interpretation of law and litigations and may even undermine the amendments proposed in Section 12(B). The Committee, therefore, is of the view that the words "any student of such medical institution" should be replaced by the words "any student of that new batch". The Committee, therefore, recommends that the drafting ambiguity in the said clause may be addressed suitably and appropriate amendment carried out with legislative vetting to make it amply clear that only the medical qualification granted to a student of a new batch admitted without the previous permission of the Central Government shall not be deemed to be a recognized medical qualification. The Committee is also of the view that though the students of that batch will be punished by way of de-recognizing their medical qualifications awarded by the medical institution which had not taken previous permission of the Central Government to admit a new batch of students, but there is a need to incorporate a punitive provision in the Act providing for deterrent punishment for such defaulting medical institutions as liability of such institute is greater than that of the students who had taken admission therein. The Committee, therefore,

recommends that the Government may bring appropriate amendment on the issue with legislative vetting.

Clause 3 is adopted subject to the above recommendation.

(IV). Clause 1, the enacting formula and the title are adopted without any change.

26. The Committee adopts the Bill subject to the recommendations made in the preceding paragraphs. The Committee also recommends that the Bill may be brought forward for consideration and passing in the Parliament without any delay.

### General Recommendations of the Committee

#### Chapter II A

27. The Committee noticed that Chapter IIA containing Section 12A and 12B, which was inserted vide an amendment in 2003, pertains to (i) permission for establishment of new medical institutions, new course of study etc, and (ii) non-recognition of medical qualifications. Chapter III deals with recognition of medical qualifications, withdrawal thereof and minimum standards of Homoeopathy education. The Committee feels that when Chapter III already existed there to deal with the medical qualifications, etc there was no need for having a separate Chapter IIA dealing with the almost similar subject i.e. permission for establishing new medical institutions, new course of study etc. and non-recognition of medical qualifications. All the

Chapters in the Principal Act had been allocated a distinctive heading indicating the subject dealt thereunder. But the new Chapter II A has not been allocated any such heading.

28. The Ministry of AYUSH vide their communication dated 13<sup>th</sup> July, 2015 clarified:-

“Section 12A under Chapter IIA pertains to “Permission for establishment of new medical institution, new course of study, etc.” and Section 12B under Chapter IIA pertains to “non-recognition of medical qualifications in certain cases”. Section 12A is related to granting of permissions to the colleges to establish new college, increase of seats and to admit new batch of students with the prior permission of the Central Government. Under Section 12B, the status of recognition of qualifications on breach of compliance with the provisions of section 12A is specified. Whereas, in Chapter III under sections 13 to 20, the process of recognition of the qualifications and de-recognition of qualification has been specified. Therefore, the arrangements of Chapter IIA and III are appropriate and sequential.”

29. The Committee in this connection directed Ministry of Law and Justice to examine it. The Ministry of Law and Justice vide their communication dated the 14<sup>th</sup>/15<sup>th</sup> July, 2015 clarified that Chapter II-A of the Act contains two sections- 12A and 12B and the said Chapter

II-A was inserted in the said Act by the Homoeopathy Central Council (Amendment) Act, 2002 (51 of 2002). The Homoeopathy Central Council (Amendment) Bill, 2015 proposes to amend the provisions of the said sections 12A and 12B. While section 12A of the said Act provides for permission for establishment of new medical institution, new course of study, etc., section 12B provides for non-recognition of medical qualifications in certain cases. Chapter III of the said Act relates to recognition of medical qualifications. As the provision of the section 12B relates to non-recognition of medical qualifications, ideally, it should have been placed under Chapter III after section 14, as both sections 13 and 14 provide for recognition of medical qualifications granted by medical institutions.

30. The Committee, takes note of the comments put forth by the Ministry of AYUSH that Section 12B is consequential to Section 12A and also in view of the opinion furnished by the Legislative Department that Section 12B should ideally be placed under Chapter III after Section 14. The Committee agrees with the observations of the Legislative Department and recommends that Section 12B may be placed in Chapter III at the appropriate place in consultation with Legislative Department. Necessary amendment in this regard may also be brought in the Bill when it is taken up for consideration in the Parliament.

## Status of Homoeopathy Central Council (Amendment) Bill, 2005

31. The Committee takes note of the Homoeopathy Central Council (Amendment) Bill, 2005 on which it presented 10<sup>th</sup> Report to Parliament on 29<sup>th</sup> July, 2005. The Committee is not satisfied with the Ministry's contention that after the 2015 amendment Bill is passed by Parliament and notified after getting the assent of the President, the pending Bill, 2005 shall be withdrawn and a fresh comprehensive amendment Bill shall be proposed which shall take into consideration the amendments proposed in the Bill, 2005 along with the recommendations of the Committee. The Committee recommends that the Department should bring forward the 2005 Bill also at the earliest without any further delay to ensure streamlining of the functioning of the Homoeopathy Central Council.

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