

The Jammu and Kashmir Homoeopathic Practitioners Act, 2003

JAMMU & KASHMIR

India

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Act 8 of 2003

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The Jammu and Kashmir Homoeopathic Practitioners Act, 2003 Act No. 8 of 2003 [Received the assent of the Governor on 18th July, 2003 and published in Government Gazette dated 21st July, 2003.] An Act to regulate the qualification and to provide for the registration of Practitioners of the Homoeopathic System of Medicine in the State of Jammu and Kashmir with a view to encouraging its development and for matters connected therewith or incidental thereto. Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-fourth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short, title, extent and commencement

(1) This Act may be called the Jammu and Kashmir Homoeopathic Practitioners Act, 2003. (2) It extends to the whole of the State of Jammu and Kashmir. (3) [It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.] [Enforced w. e. f. 1st December, 2003 vide SRO 398 dated 25.1.2003.]

2. Definitions

- In this Act, unless the context otherwise requires, -(a) "Act" means the Jammu and Kashmir Homoeopathic Practitioners Act, 2003; (b) "Board" means the Board of Homoeopathic System of Medicine established and constituted under section 3; (c) "Government" means the Government of the State of the Jammu and Kashmir; (d) "Homoeopathic System" means the Homoeopathic System of Medicine founded by Dr. Hahnemann and includes the allied system of Biochemistry founded by Dr. Schussler and the expressions Homoeopathic and Biochemic shall be construed accordingly; (e) "Member" means a member of the Board and includes the President; (f) "Practitioner"

means one who practises the Homoeopathic system of Medicine;(g)"Prescribed" means prescribed by rules made under this Act;(h)"President" means the President of the Board ;(i)"Register" means the Register of the Practitioners maintained under section 16 ;(j)"Registered Practitioner" means a practitioner whose name is for the time being entered in the Register ;(k)"Registrar" means the Registrar appointed under section 14 ;(l)"Regulations" means regulations made under section 53 ;(m)" Rules" means rules made under section 52 ;(n)"Section" means a section of this Act.

Chapter II

Constitution, function and elections of the Board

3. Establishment, constitution and incorporation of the Board.

(1)The Government may, as soon as may be, by notification published in the Government Gazette establish a Board to be called "The Board of Homoeopathic System of Medicine in Jammu and Kashmir" for the purposes of carrying out of the provisions of the Act.(2)The Board shall be a body corporate with the name aforesaid having perpetual succession, common seal with power to acquire, hold and dispose of property, both moveable and immoveable and to contract and shall by the said name sue and be sued.(3)The Board shall consist of eleven members residing in Jammu and Kashmir state of whom-(a)four members shall be nominated by the Government, one of them, if possible, being a person connected with recognized institution for the purpose of giving instructions in Homoeopathic System of Medicine as the Government may determine ;(b)seven members being permanent residents of the State, of whom not less than four shall be holding a degree, diploma or certificate in the Homoeopathic System from such institutions as are referred to in Schedule I shall be elected by the registered practitioners from among themselves.(4)The President of the Board shall be elected by the members from amongst themselves; provided that for the first term of the Board after the commencement of the Act, the President shall be a person nominated by the Government from amongst the members, who shall hold the office during the pleasure of the Government.(5)The Seven members mentioned under clause (b) of sub-section (3) shall, in the case of the first Board to be constituted after the commencement of the Act, be nominated by the Government from amongst the practitioners who are eligible to be registered practitioners, and such members shall be deemed to have been duly elected under clause (b) of sub-section (3):Provided that not less than four of such members shall be persons holding a degree, diploma or certificate in Homoeopathic System from such institutions as are referred to in Schedule I.

4. Election of members.

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

5. Nomination of members in default of election.

- If any of the members is not elected under section 4, the Government may, notwithstanding anything contained in sub-section (3) of section 3 nominate such registered practitioner as it deems

fit and the practitioner so nominated shall for the purpose of this part be deemed to have been duly elected under section 4.

6. Term of office.

(1) Save as otherwise provided, the term of office of elected and nominated members shall be five years commencing from the date on which the first meeting of the Board is held after the members are elected or nominated, as the case may be: Provided that the term of office of members appointed to the Board constituted immediately after the commencement of the Act, shall be three years from the date on which the first meeting of such Board is held. (2) An outgoing member shall continue in office until the election or nomination of his successor, as the case may be. (3) The outgoing member shall be eligible for re-nomination or re-election.

7. Vacancies.

- When the seat of any member becomes vacant due to death, resignation, removal or disability of such member or otherwise, the vacancy shall be filled by election or nomination, as the case may be, in accordance with the provisions of the Act: Provided that the term of office of a member elected or appointed to fill a vacancy occurring at any time after the constitution of the Board, shall be the residue of the term provided for under section 6.

8. Registration of a member.

- Any member may at any time resign his office by letter addressed to the President or Registrar and such resignation shall take effect from the date on which it is accepted by the Board: Provided that the President may resign his office by letter addressed to the Government and his resignation shall take effect from the date of its acceptance by the Government.

9. Disability for continuing as member.

- If any member-(a) absents himself without such reasons as may, in the opinion of the Board be sufficient, from three consecutive ordinary meetings of the Board; or (b) becomes subject to any of the disqualification mentioned in section 10; or (c) being a legal practitioner, appears in any suit or proceeding, civil or criminal against the Board; or (d) obtains any employment under the Board; or (e) acquires without prior sanction of the Government directly or indirectly by himself or by a partner any share or interest of any contract made with, by, or on behalf of the Board; the Board shall declare his office to be vacant.

10. Disqualification.

- No person, -(a) who is a minor or an un-discharged insolvent; or (b) who has been adjudicated by a competent Court to be of unsound mind; or (c) whose name has been removed from the Register; or (d) who has been sentenced by a Court to imprisonment for an offence which, in the opinion of the

Board involves moral turpitude or indicates such a defect or character as would render the entry of continuance of his name in the Register undesirable, the sentence not having been subsequently reversed in appeal or revision, or remitted by an order which the Government is empowered to make in that behalf; or(e)who has been found guilty, by a majority of two-third of the members of the Board present and voting at the meeting thereof, of infamous conduct in any professional respect after enquiry by the Board at which an opportunity has been given to such person to be heard in his defence either in person or through a representative ; or(f)who is a dismissed servant of the Government or any local authority;shall be eligible for being elected or nominated as a member.

Chapter III

Proceedings of the Board

11. Validity of proceedings.

- No disqualification or defect in the election or nomination of any person acting as member of the Board or as the President or Presiding authority of meeting, shall be deemed to vitiate any act or proceedings of the Board, in which such person has taken part.

12. Time and place of meeting of the Board.

- The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner as may be prescribed by regulations:Provided that till such regulations are made, it shall be lawful for the President to summon a meeting of the Board at such time and place, as he may deem expedient by a letter addressed to each member.

13. Procedure at the meetings of the Board.

(1)The President and in the Absence of the President, a person elected by the members present from amongst themselves, shall preside at a meeting of the Board.(2)All questions at a meeting of the Board shall be decided by the votes of the majority of members present and voting at the meeting and, in case of a tie, the President for the time being may, in addition to his vote as a member of the Board, exercise a second or a casting vote.(3)Five members shall form a quorum at a meeting of the Board:Provided that if a meeting is adjourned for want of quorum to a subsequent date, no quorum shall be necessary at the next meeting held on such date for transacting the same business.

14. Registrar and other Officers.

(1)The Board, shall with the previous approval of the Government, appoint a Registrar who shall act as Secretary of the Board and shall also be its Treasurer unless the Board appoints another persons as Treasurer. The Registrar shall receive such salary and allowances and be subject to such conditions of service as may be prescribed. The Board may, from time to time, grant leave to the Registrar and may appoint a person to act in his place. Any persons duly appointed to act as

Registrar shall be deemed to be the Registrar for all the purposes of the Act; provided that for the first three years from the first constitution of the Board after the commencement of the Act, the Registrar shall be a person appointed by the Government and shall hold office during the pleasure of the Government.(2)Any order of the Board appointing or removing a Registrar from office shall not be passed without the previous approval of the Government.(3)The Board may appoint such other officers and servants as may be necessary for carrying out the purposes of this Act.(4)The Registrar and any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code, Samvat 1989.(5)A person shall not be qualified for appointment as a Registrar unless he is possessed of any of the qualifications prescribed in Schedule I or holds or has held the post of Director or Dy. Director of the Department of Indian Systems of Medicines in the State.

15. Duties of Registrar.

(1)Subject to the provisions of the Act and the rules made thereunder and subject to any general or special orders of the Board, it shall be the duty of the Registrar to keep the Register.(2)The Register shall be kept in such form as may be prescribed and shall contain the name, address and qualifications of every registered practitioner together with the dates on which such qualifications were acquired. The Register shall be divided into the following parts: -(i)Part 'A' containing the names of the practitioners referred to in sub-section (1) of section 16; and(ii)Part 'B' containing the names of practitioners referred to in sub-section (2) of section 16.(3)The Registrar shall keep the Register correct as far as possible and may, from time to time, enter therein any material alternation in the address or qualifications of the practitioners. The names of the registered practitioners who die, or whose name are directed to be removed from the Register under sub-section (3) of section 16, shall be removed from the Register.(4)A registered practitioner shall, on payment of such fee as may be prescribed, be entitled to have entered in the Register any further degrees, diplomas or certificates or other qualifications in Homoeopathic System of Medicine or other recognized medical degrees, diplomas or certificates, which he may obtain.(5)For the purpose of this section, the Registrar may write by registered post to any registered practitioner at the address which is entered in the Register to enquire whether he has ceased to practice or has changed his residence and, if no answer is received to the said letter within six months, the Registrar may remove the name of such registered practitioner from the Register:Provided that the Board may, on being satisfied on the application of such practitioner that he has not ceased to practise, direct that his name be re-entered in the Register on payment of such fees as may be prescribed.

16. Registration.

(1)Every person possessing the qualification mentioned in Schedule 1 shall, subject to the provisions of the Act and on payment of such fees as may be prescribed, be entitled to have his name entered in Part 'A' of the Register subject to such conditions as the Board may direct.(2)Every person who has passed Matriculation Examination or its equivalent from a recognized University or Board and Who, within a period of six months from the date on which the Act comes into force, proves to the satisfaction of the Registrar that he has been in regular practice as a practitioner for a period of not less than five years preceding the date on which he makes the application for being registered as a

Practitioner under this Act, shall be entitled to have his name entered in Part 'B' of the Register on payment of the prescribed fee :Provided that during his practice as a practitioner he has not fallen into disrepute about his personal conduct or professional capability and is able to carry on such practice without any probable danger to human life :Provided further that no person shall be registered under this sub-section unless he produces certificate, each from the Director, Indian System of Medicine and the Deputy Commissioner of the District in which he is practising, to the effect that he fulfils the conditions laid down in this sub-section.(3)The Board may direct that the name of any practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, Samvat 1989 which discloses such defect or moral character as is, in the opinion of the Board, sufficient to make him unfit to practise his profession, or who has been found, after due enquiry, guilty of conduct which is, in the opinion of the Board, infamous in any professional respect, shall be removed from the Register.(4)The Board may, on sufficient cause being shown, also direct that the name of the practitioner so removed shall be re-entered in the Register.(5)Every registration under this section shall be in force for a period of five years and may, subject to the provisions of sub-section (6) be renewed for a period of five years at a time.(6)Every application for renewal of registration under sub-section (5) shall be made on payment of such fee and in such manner as may be prescribed.

17. Appeal to Board from decisions of Registrar and other powers of the Board.

(1)Any person aggrieved by any decision of the Registrar may prefer an appeal to the Board within three months from the date of the order appealed against in such manner as may be prescribed.(2)An appeal filed under sub-section (1) shall be heard and decided by the Board in the manner prescribed.(3)The Board may either suo moto or on the application of any person after due and proper enquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the Register if, in the opinion of the Board, such entry was fraudulently or incorrectly made.

18. Qualified Practitioner Certificates.

- Notwithstanding anything in any law for the time being in force,-(a)the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognized by law as a medical practitioner or member of medical profession shall in all Acts passed by the State Legislature include a practitioner whose name is entered in Part "A" of the Register ;(b)a certificate required under any law in force in the State from any Medical Practitioner or Medical Officer shall be valid if such certificate has been signed by a registered practitioner whose name is in Part "A" of the Register ;(c)a practitioner registered in Part "A" of the Register shall be eligible to hold any appointment as a Medical Officer in any Homoeopathic Dispensary or Hospital supported by or receiving a grant from the Government and treating patients according to the homoeopathic system or in any public establishment, body or institution dealing with such system.

19. Notice of deaths.

- Every Registrar of Deaths on receiving notice of the death of a registered practitioner shall forthwith transmit by post to the Registrar, a certificate under his own hand of such death with the particulars of time and place of death.

20. Establishment of Homoeopathic Institutions.

(1) No person shall establish any Homoeopathic institution except with the prior approval of the Government: Provided that the approval of the Government under this sub-section shall be given only after the Board has made recommendation to that effect. (2) Nothing contained in sub-section (1) shall apply to the Homoeopathic institution established by the Government. (3) Every application for approval under sub-section (1) shall be made in such form, on payment of such fees and in such manner as may be provided by the regulations.

21. Power of the Board to call for information regarding efficiency of teaching and to attend examinations.

(1) The Board shall have power to direct to the governing body of any University, Medical College or institution desirous of being included in Schedule I-(a) to furnish such reports, returns or other information as the Board may require to enable it to judge the efficiency of the instruction given therein in Homoeopathic medicine ; and (b) to provide facilities to enable any member of the Board deputed by it in this behalf to be present at the examination held by such University, College or Institution. (2) If the said body refuses to comply with any such direction, the Government may, upon the report by the Board, remove the name of such University, Medical College or institution from Schedule I or refuse to include it in the said schedule.

22. Fees payable to members of the Board.

- There shall be paid to the members of the Board such fees and allowance for attending meetings of the Board and such reasonable travelling allowance as may, from time to time, be prescribed.

23. Fees received by the Board.

- All money received by the Board shall be applied for purpose of this Act and the rules made thereunder.

24. Alteration of the Schedule.

- The Government may, by notification in the Government Gazette, alter the schedule from time to time.

25. Control of the Government.

- If at any time it appears to the Government, on the report of Director, Indian Systems of Medicine or otherwise that the Board has failed or neglected to exercise or has exceeded or abused any of the powers conferred upon it by or under this Act or has failed or neglected to perform any of the duties conferred upon it by or under this Act, it may wherever such failure, neglect, excess or abuse is of a serious character, notify the particulars thereof to the Board, and if the Board fails to remedy such default, excess or abuse within such time as the Government may fix in this behalf, the Government may dissolve the Board and caused all or any of the powers and duties of the Board to be exercised and performed by such person and for such period not exceeding two years as it may appoint in this behalf.

26. Cognizance of offences.

- No court shall take cognizance of any offence under this Act except on a complaint in writing by an officer empowered by the Government in this behalf.

27. Limitation of jurisdiction of Courts.

- No act done in the exercise of any power conferred by this Act on the Government or the Board or the Registrar shall be questioned in any Court.

28. Penalty for falsely pretending to be a registered practitioner.

- Whoever-(a)falsely pretends to be a registered practitioner, whether any person is actually deceived by such pretence or not;(b)voluntarily and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted by any authority specified in Schedule I,shall on conviction be punishable with a fine which may extend to twenty thousand rupees or with imprisonment which may extend to two years, or with both.

29. Annual list of practitioners.

(1)The Registrar shall in every year, on or before a date to be fixed by the Board, cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the Register and the date when such qualifications were acquired.(2)In any proceeding it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner.

30. Prohibition to practice of persons not listed.

- No person other than a registered practitioner shall practice or hold himself out,whether directly or by implication as practicing or as being prepared to practice the Homoeopathic System in the

State.

31. Penalty

- Whoever acts in contravention of the provision of section 30 shall on conviction, for each offence be punishable-(i)for the first offence with fine which may extend to five thousand rupees ;and(ii)for the second or any subsequent offence with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees, or with both.

32. Conferring, granting or issuing colourable imitation of degrees, diplomas, etc. to be an offence.

(1)No person other than-(a)a recognized University ;(b)an institution/authority empowered or recognized as competent, by the Government to confer, grant or issue any degree, diploma, license, certificate or any other like award entitling the holder thereof to practice Homoeopathic System of Medicine, shall confer, grant or issue or hold himself as entitled to confer, grant or issue any degrees, diploma, license, certificate or any other like award which is identical with, or is a colourable imitation of, any degree, diploma, license, certificate or award conferred, granted or issued by a University, an institution, authority referred to in clauses (a) and (b)and purports to entitle the holder thereof to practice Homoeopathic System of Medicine.(2)Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees or with imprisonment which may extend to three years or with both.

Chapter IV

Disputes regarding elections

33. Definitions of this Chapter.

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

34. Election petitions.

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

35. Presentation of election petition.

(1) Any registered practitioner may within a period of thirty days from the date on which the election of any member is notified and on furnishing the prescribed security in the prescribed manner, present on one or more of the grounds specified in sub-section (1) of section 47 to the prescribed authority an election petition in writing against the election of such member. (2) The election petition shall be deemed to have been presented to the prescribed authority-(a) when it is delivered to the prescribed authority by the person making the petition or by a person authorised in writing in this behalf by the person making the petition ; or (b) when it is sent by registered post and is delivered to the prescribed authority.

36. Contents of petition.

(1) An election petition shall-(a) contain a concise statement of the material facts on which the petition relies; (b) set forth full particulars of any corrupt practice that the petitioner alleges, including a statement of the names of the parties alleged to have committed such corrupt practice and date and place of the commission of each such practice : and (c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, Samvat 1977. for the verification of pleadings: Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

37. Procedure on receiving election petition.

- If the prescribed security is not furnished in the prescribed manner or the petition is not presented within the period specified in section 35, the prescribed authority shall dismiss the petition : Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

38. Power to withdraw, transfer petitions.

- Any authority empowered in this behalf by the Government may, at any stage after notice to parties and for reasons to be recorded, withdraw any election petition pending before a prescribed authority and transfer it for trial to another prescribed authority ; and upon such transfer, it for trial another prescribed authority ; and upon such transfer, that prescribed authority shall proceed with the trial from the stage at which it was withdrawn : Provided that such authority may, if it thinks fit, recall and re-examine any of the witnesses already examined.

39. Procedure before prescribed authority.

(1) Subject to the provisions of the Act and of any rules made thereunder, every election petition shall be tried by the prescribed authority, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, Samvat 1977, to the trial of suits : Provided that the prescribed authority shall have the discretion to refuse for reasons to be recorded to examine any witness or witnesses, if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings. (2) The provisions of the Evidence Act, Samvat 1977 shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

40. Appearance before prescribed authority.

- Any appearance, application or act before the prescribed authority may be made or done by the party in person or by an Advocate duly appointed to act on his behalf: Provided that it shall be open to the prescribed authority to direct, any party to appear in person whenever the prescribed authority considers it necessary.

41. Powers of prescribed authority.

- The prescribed authority shall have the powers which are vested in a court under the Code of Civil Procedure, Samvat 1977 when trying a suit in respect of the following matters :-(a) Discovery and inspection ;(b) Enforcing the attendance of witnesses and requiring the deposit of their expenses ;(c) Compelling the production of documents ;(d) Examining witnesses on oath ;(e) Granting adjournments ;(f) Reception of evidence taken on affidavit ;(g) Issuing commissions for the examination of witnesses ; and (h) To summoning and examine suo moto any person whose evidence appears to it to be material. Explanation :- For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the prescribed authority shall be the limits of the State.

42. Documentary evidence.

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

43. Secrecy of voting not infringed.

- No witness or other person shall be required to disclose as whom he has voted at an election.

44. Answering of criminating questions and certificate of indemnity.

(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition on the ground that the answer to such question may

criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :Provided that -(a)a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the prescribed authority; and(b)an answer given by a witness to a question put by or before the prescribed authority shall not except in the case of any criminal proceedings of perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.-(2)When a certificate of indemnity has been granted to any witness it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under the State Ranbir Penal Code, Samvat 1989 arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with any election imposed by this Act or any law.

45. Expenses of witness.

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

46. Decision of the prescribed authority.

(1)When an election petition has not been dismissed under section 37, the prescribed authority shall inquire into the election petition and at the conclusion of the inquiry shall make an order-(a)dismissing the election petition ; or(b)setting aside the election.(2)At the time of making an order under sub-section (1), the prescribed authority shall also make an order-(a)where any charge is made in the petition of any corrupt practice having been committed at the election, recording,-(i)a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice ; and(ii)the names of the persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice ; and(b)fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid :Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless,-(i)he has been given notice to appear before the prescribed authority and to show cause why he should not be so named ; and(ii)if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the prescribed authority and has given evidence against him, of calling evidence in his defence and of being heard.

47. Grounds for setting aside election.

(1)If the prescribed authority is of the opinion.-(a)that on the date of his election the elected person was not qualified or was disqualified to be elected under this Act; or(b)that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or(c)that any nomination has been impartially rejected ; or(d)that the result of the election, in so far as it concerns the elected person has been materially affected,-(i)by the improper acceptance of any nomination ; or(ii)by the improper reception, refusal or rejection of any vote or the reception of any vote which is void ; or(iii)by any non-compliance with the

provisions of this Act or of any rules made under this Act; the prescribed authority shall set aside the election of the elected person. (2) When an election has been set aside under sub-section (1), a fresh election shall be held.

48. Abatement of election petition.

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

49. Costs and payment thereof out of security' deposits and return of such deposits.

(1) Costs including Advocate's fee shall be in the discretion of the prescribed authority. (2) If in any order as to costs under the provisions of this Chapter there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible out of the security deposit made by such party under this Chapter, or an application made in writing in that behalf within a period of one year from the date of such order to such authority as may be empowered in this behalf by the Government by the person in whose favour the costs have been awarded. (3) If there is any balance left of the security deposit under this Chapter after payment under sub-section (2) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year, the whole of the said security deposit may on an application made in that behalf in writing to the authority referred to in sub-section (2) by the person by whom the security has been deposited or if such person dies after making such deposit by the legal representatives, of such person, be returned to the said person or to his legal representatives, as the case may be.

50. Execution of orders as to costs.

- Any orders as to costs under the provisions of this Chapter may be produced before the Civil Court within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made of itself in a suit: Provided that where any such cost or any portion thereof may be recovered by an application made under sub-section (2) of section 49, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs, which has been left unrealized after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposit referred to in that sub-section.

51. Corrupt practices entailing disqualification.

- The corrupt practice specified in Schedule II shall entail disqualification for membership of the Board for a period of five years counting from the date on which the finding of the prescribed

authority as to such practices has been given.

Chapter V

Miscellaneous

52. Rules.

(1)The Government may make rules for the purpose of carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the Government may make rules for the following matters :-(i)the time at which and the place and manner in which election shall be held under section 5 ;(ii)the manner in which vacancies shall be filled under section 7;(iii)the manner in which the meetings of the Board shall be convened and held;(iv)the salary, allowances and other conditions of service of the Registrar under section 14 ;(v)the form of the Register and the particulars to be entered therein under section 15 ;(vi)to fix the amount of fees to be levied under this Act;(vii)the manner in which appeals against the decision of the Registrar shall be heard by the Board under section 17;(viii)to fix disposal of fees received under this Act;(ix)fees and other allowances payable to members of the Board under section 22;(x)the furtherance of any of the objects of the Board ;(xi)the form of the certificate of registration mentioning therein the part in which the registered practitioner is registered.

53. Regulations.

(1)The Board may, with the previous sanction of the Government make regulations, not inconsistent with the provisions of the Act, and the rules, for any of the following matters, namely: -(i)the time and place at which the Board shall hold its meetings under section 12 ;(ii)the salary, allowances and other conditions of service of officers and servants of the Board other than the Registrar, under section 14 ;(iii)the form in which, the particulars with which and the manner in which, an application for the approval of the Council for establishment of Homoeopathic Institution shall be made;(iv)the standards of professional conduct and etiquettes and the code of ethics to be observed by a Homoeopathic practitioner;(v)all other matters which may be necessary for the purposes of carrying out the objects of this Act.(2)The regulations shall be published in the Government Gazette.(3)The Government may, by notification in the Government Gazette, cancel any regulation :Provided that in submitting regulations under clauses (i) to (iv) for sanction of the Government under this section, the Board shall send a copy of its proceedings relating to the passing of such regulations and shall state the number of its members who have voted for or against such regulations or not voted in respect of such regulations.

I

Persons who are entitled to have their names entered in part "A" of the Register of Homoeopaths :- (1)Homoeopaths who have recognized medical qualification in Homoeopathy granted by Universities, Boards or Medical Institutions in India which are included in the Second Schedule of

the Homoeopathy Central Council Act, 1973.(2)Homoeopaths who have recognized medical qualifications granted by Homoeopathic Institutions outside India which are included in the Third Schedule of the Homoeopathy Central Council Act, 1973.(3)Homoeopaths who have passed an examination from any Homoeopathic Institution in State or outside it recognized by the Government for purposes of registration.(4)Homoeopaths who have been registered by a State Board of Homoeopaths, i.e, System of Medicine established by law anywhere in the Indian Union by virtue of their having passed a qualifying examination from a recognized institution.

II

The following shall be deemed to be corrupt practices for the purposes of section 51 :-(1)Bribery, that is to say-(A)any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification to any person whomsoever with the object, directly or indirectly of inducing-(a)a person to stand or not to stand as, or to withdraw' from being, a candidate at an election ; or(b)a voter to vote or refrain from voting at an election, or as a reward to.-(i)a person for having so stood or not stood, or for having withdrawn his candidature ; or(ii)a voter for having voted or refrained from voting ;(B)the receipt of, or agreement to receive, any gratification,whether as a motive or a reward-(a)by a person for standing or not standing as, or for withdrawing from being a candidate; or(b)by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or of attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.Explanation :- For the purposes of this clause, the term "Gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election.(2)Undue influence, that is to say, any direct or indirect interference or attempts to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent, with the free exercise of any electoral right:Provided that -(a)without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who-(i)threatens any candidate or a voter or any person in whom a candidate or such voter is interested with injury of any kind including social ostracism and excommunication or expulsion from any caste or community ;(ii)induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested, will become or will be tendered an object of divine displeasure or spiritual censure ;shall be deemed to interfere with free exercise of the electoral right of such candidate or a voter within the meaning of this clause ;(b)a declaration of publication, ora promise of publication or the mere exercise of legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.(3)The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols of, the use of or appeal to, national symbols, such as the national flag or the national emblem or the furtherance of the prospects of the election of that candidate or of prejudicially affecting the election of any candidate.(4)The promotion of, or attempt to promote feeling of enmity or hatred between different classes of the citizen of India on grounds of religion, race, caste, community or language by a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.(5)The publication by candidate or his agent of

any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation of the personal character or conduct of any candidate or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.(6)The hiring or procuring whether on permanent or otherwise of any vehicle by a candidate or his agent by any other person with the consent of a candidate or his agent for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or in any polling station provided or a place fixed for the poll:Provided that the hiring of a vehicle by a voter/voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for poll shall not be deemed to be a corrupt practice under this clause, if the vehicle so hired is a vehicle not repelled by mechanical power.