



2026:AHC:119894-DB

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 12569 of 2026

Khushi Hospital And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Amresh Tripathi, Pankaj Kumar Gupta
Counsel for Respondent(s) : C.S.C.

Court No. - 29

**HON'BLE ARINDAM SINHA, J.
HON'BLE SATYA VEER SINGH, J.**

(Per Arindam Sinha,J)

1. Petitioners engaged in running a hospital have provisional registration. They have challenged orders dated 10th March, 2026 of sealing and 18th March, 2026 of cancellation made by respondent no. 3 (the Chief Medical Officer/CMO). Reliance is on section 32 in Clinical Establishments (Registration and Regulation) Act, 2010 for contention that cancellation of registration can only be done by the authority. Definition of authority is provided by clause (a) in section 2. Reliance has also been on section 10, which provides for the authority to have the District Collector as Chairperson, the District Health Officer as convenor and three members possessing prescribed qualifications, to be appointed on such terms and conditions as may be prescribed. In the circumstances, the CMO cannot be said to be the authority to exercise power of cancellation of registration certificate. Mr. Pankaj Kumar Gupta, learned advocate appears on behalf of petitioners.

2. The writ petition is up for final hearing upon opportunity granted to State for obtaining instructions. Dr. D.K. Tiwari, learned advocate, Additional Chief Standing Counsel appears on behalf of State and to begin with relies on sub-section (2) in section 10. The sub-section is reproduced below.

"(2) Notwithstanding anything contained in sub-section (1), for the purposes of provisional registration of clinical establishments under

section 14, the District Health Officer or the Chief Medical Officer (by whatever name called) shall exercise the powers of the authority as per procedure that may be prescribed."

(emphasis supplied)

He then relies upon sections 14 and 32 (2).

3. Dr. Tiwari hands up Uttar Pradesh Clinical Establishments (Registration and Regulation) Rules, 2016. He relies on rule 13, reproduced below.

"Rule - 13. The District Registering Authority.

The State Government shall, by notification, under section-10, of the Act and in accordance with the rules framed by central Government in this behalf set up an authority to be called the District Registering Authority for each district for registration of clinical establishments."

Without prejudice he submits further, there was notification dated 14th December, 2017 issued. He points out from it, timelines have been provided on efficacious alternative remedy petitioners can avail by filing application, first and second appeals.

4. Dr. Tiwari proceeds to rely on view taken by a Division Bench of this Court in **Medaxis Hospital v. State of U.P.** reported in **2019 (9) ADJ 77**, paragraphs 13 and 14 (Lawsuit print). The paragraphs are reproduced below.

"[13] From the conjoint reading of the sections referred to above what emerges is that the "authority" is the Committee constituted under section 10 of the Act, 2010 in which the District Collector is the Chairperson and the District Health Officer or the Chief Medical Officer (by whatever name called), shall exercise the powers of the authority as per procedure that may be prescribed. This means that for the purpose of provisional registration of clinical establishment this is the Committee which will consider whether registration has to be granted or not. Thereafter the registration itself will be granted by the "authority" i.e. the Chief Medical Officer.

[14] Section 32 of the Act, 2010 also refers to the "authority" which means the Chief Medical Officer, who is the competent authority to cancel the registration of the clinical establishment."

He submits, the cancellation was duly made. No interference is warranted. Nevertheless, he reiterates, petitioners if aggrieved have efficacious alternative remedy.

5. Mr. Gupta reiterates his submission that cancellation under section 32 can only be by the 'authority'. Definition of 'authority' is given in clause (a) under section 2 and section 10 prescribes constitution of the authority. He seeks interference on reference to impugned cancellation order as having been passed by the CMO. According to him, respondent no. 3 did not have the power to pass the order.

6. Sub-section (2) in section 10 provides for purpose of the provisional registration under section 14. The District Health Officer or the CMO (by whatever name called) will exercise powers of the authority. That means, application for registration to be made to the authority under section 14, by operation of section 10(2), empowers the CMO to receive it. In this regard rule 21 is reproduced below.

"Rule 21. Acknowledgement of Application.

The Authority, or any person in his office authorized in this behalf, shall, acknowledge receipt of the application for registration, in the acknowledgment slip provided as per SGAA Annexe immediately, if delivered at the office of the authority, or not later than the next working day if received by post and by online acknowledgement to be generated automatically by the system."

(emphasis supplied)

Going by definitions clause (a) under section 2, prescription for constitution of the authority under section 10 and functions of the authority under rule 14, by clause (a), providing that one of the functions will be to cancel registration of any clinical establishment, we have no doubt in our mind that cancellation of, even provisional certificate, must be by the authority. Rule 14(a) is reproduced below.

"Rule - 14. Functions of the Authority.

The Authority shall perform the following functions:-

(a) To grant, renew, suspend or cancel registration of any clinical establishment."

(emphasis supplied)

7. We respectfully agree with view taken by paragraph 13 (Lawsuit print) in **Medaxis Hospital** (supra). In case of petitioners, their provisional certificate has been cancelled by respondent no. 3 (the CMO). The authority has acted

without jurisdiction. The writ Court can intervene inspite of efficacious alternative remedy available. There has been declaration of law to this effect. Reference can be made to often relied upon judgment of the Supreme Court in **Whirlpool Corporation v. Registrar of Trademarks**, reported in (1998) 8 SCC 1. However, by paragraph 14 the Division Bench said, section 32 refers to the 'authority', which means the 'Chief Medical Officer', who is the competent authority to cancel the registration of the clinical establishment. In this context section 2 (a) and section 10(1) are reproduced below.

"Section 2 (a)

(a) "authority" means the district registering authority set-up under section 10."

xxxxx

xxxxxx

xxxxx

"10. Authority for registration.—(1) The State Government shall, by notification, set-up an authority to be called the district registering authority for each district for registration of clinical establishments, with the following members, namely:—
(a) District Collector— Chairperson;
(b) District Health Officer—Convenor;
(c) three members with such qualifications and on such terms and conditions as may be prescribed by the Central Government."

Nowhere in section 32 or elsewhere in the Act is there mention, except as provided in section 10 (2), is the authority equated to or said to be the CMO. Section 10(2) has already been reproduced above.

8. On query we have ascertained that there is no notice issued by the authority for cancellation. Section 32 provides for three months' notice in the matter of cancellation of registration certificate. It is only thereafter, on due cancellation, there can be reasons recorded in writing for immediately restraining the clinical establishment from carrying on, if there is imminent danger to the health and safety of patients. It follows, the sealing and cancellation orders are required to be and, are hereby set aside and quashed. As such, we are compelled to direct that the authority must issue notice for cancellation, giving three months time to petitioners for response, as provided under section 32 (2), only after which there can be cancellation and restraint placed on operation of the hospital.

9. Impugned orders of sealing and cancellation are set aside and quashed.
The writ petition is accordingly allowed and disposed of.

May 21, 2026
Vikram

(Arindam Sinha,J.)

(Satya Veer Singh,J.)