



2026:CGHC:23191-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 392 of 2026**

Ashwani Gurdekar S/o Late Shri Balchand Gurdekar Aged About 55 Years Store Keeper Cum Registrar, R/o Chhattisgarh State Pharmacy Council, Anand Nagar, Raipur, District- Raipur (C.G.)

... Appellant(s)**versus**

1. State of Chhattisgarh Through The Secretary, Department of Public Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, Distt.- Raipur (C.G.)
2. The Director Department of Public Health and Family Welfare, Mantralaya, Indrawati Bhawan, Atal Nagar, Nava Raipur, District- Raipur (C.G.)
3. The Chhattisgarh State Pharmacy Council Through Its President, Anand Nagar, Raipur, District- Raipur (C.G.)
4. Dr. Rakesh Gupta S/o Shri Sardari Lal Gupta Aged About 63 Years R/o Near R.C. Industries, Infront Of New Bus Stand, Main Road, Pandri, Raipur, Distt.- Raipur (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Sudeep Johri and Mr. J.K. Gupta, Advocates.
For Respondent/State	:	Mr. Prasun Bhaduri, Deputy Advocate General.
For Respondent No. 4	:	Mr. Shayam Sunder Lal Tekchandani, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge
Judgment on Board

Per Ramesh Sinha, Chief Justice

15.05.2026

1. Heard Mr. Sudeep Johri and Mr. J.K. Gupta, learned counsel for the appellant. Also heard Mr. Prasun Bhaduri, learned Deputy Advocate General, appearing for the State/respondents No. 1 to 3 and Mr. Shayam Sunder Lal Tekchandani, learned counsel, appearing for respondent No. 4.
2. The present intra-Court appeal has been preferred by the appellant against the order dated **03.03.2026** passed by the learned Single Judge in **WPS No. 773 of 2025 (Dr. Rakesh Gupta vs. The State of Chhattisgarh & Others)**, whereby the writ petition filed by the writ petitioner / respondent No. 4 herein came to be allowed.
3. Learned counsel for the appellant submits that the impugned order passed by the learned Single Judge is wholly unsustainable in law as well as on facts and suffers from patent errors apparent on the face of record. It is submitted that the learned Single Judge has travelled beyond the settled scope of a writ of quo warranto and has erroneously interfered with a purely temporary administrative arrangement, despite there being no substantive appointment of the appellant on the post of Registrar.

4. It is further submitted by the learned counsel, appearing for the appellant that the respondent No. 4 had filed the writ petition challenging the order dated 14.03.2024 whereby the appellant, who is substantively serving on the post of Pharmacist at Dr. B.R. Ambedkar Hospital, Raipur, was merely entrusted with additional charge of the post of Registrar of respondent No.3/Council as a stop-gap administrative arrangement. The writ petition sought issuance of a writ of quo warranto alleging violation of Rule 96 of the Pharmacy Council Rules, 1978 (for short, 'Rules of 1978'). However, the learned Single Judge failed to appreciate that the appellant was never appointed on the substantive or permanent post of Registrar and, therefore, the very foundation for issuance of a writ of quo warranto was absent. He also submits that Rule 96(1) of the Rules of 1978 contemplates appointment of a full-time Registrar who is to be paid salary by the Council, while Rule 96(2) of the Rules of 1978 prescribes the eligibility criteria for regular appointment to the said post. The said provisions operate only in relation to substantive appointment and have no application to a temporary arrangement or entrustment of additional charge made in administrative exigency. The appellant was merely assigned additional charge till finalization of the process relating to amendment of rules and regular appointment. Therefore, the learned Single Judge committed manifest error in treating such temporary arrangement as a regular statutory appointment.

5. It is further contended by the learned counsel, appearing for the appellant that both the State Government as well as the appellant had

specifically pleaded before the learned Single Judge that respondent No.4 / writ petitioner is a politically motivated person who has been continuously filing litigations against the Council with oblique motives. It was specifically pointed out that respondent No. 4 had earlier been removed from the post of nominated member of the Council under Section 25(3) of the Pharmacy Act, 1948 (for short, 'Act of 1948') and, therefore, the writ petition was filed only to settle personal scores and gain undue publicity. Despite such specific pleadings, the learned Single Judge failed to examine the maintainability and bona fides of the writ petition.

6. Learned counsel for the appellant would submit that respondent No. 4 had earlier submitted a complaint dated 30.12.2022 against the previous Registrar by relying upon a resolution of the Council suggesting that the Registrar should possess qualification in Pharmacy. Pursuant thereto, the competent authority constituted a sub-committee for prescribing eligibility criteria for appointment to the post of Registrar. The said committee, in its recommendations dated 17.11.2022 and 03.01.2023, recommended that the post of Registrar should be filled from amongst degree holders in Pharmacy. Consequently, the amendment proposal was approved and forwarded for publication in the Official Gazette on 28.02.2025. Till completion of the said process, the appellant was entrusted with additional charge purely as an interim administrative arrangement. Thus, the arrangement was bona fide, reasonable and made in administrative necessity. He further contended that the learned Single Judge gravely erred in holding the writ petition

maintainable despite the settled legal position that a writ of quo warranto lies only when a person is holding a substantive public office contrary to statutory provisions. Reliance is placed upon the judgment in ***Anand Selot Vs. Chief Secretary, Government of Madhya Pradesh & Others, 2010 ILR (MP) 1357***, wherein it has been held that quo warranto would lie only against a substantive appointment made contrary to statutory provisions. Reliance is further placed upon the Constitution Bench judgment of the Hon'ble Supreme Court in ***University of Mysore v. C.D. Govinda Rao, AIR 1965 SC 491***, wherein the Hon'ble Supreme Court has categorically held that before a writ of quo warranto can be issued, the Court must satisfy itself that the office in question is a substantive public office and that the incumbent is holding the same without lawful authority. The Hon'ble Supreme Court observed that the jurisdiction of quo warranto is intended to prevent violation of a public office and not to examine every administrative arrangement made by the executive. He also submits that in the present case, the learned Single Judge itself recorded that the appellant was merely given additional charge and was not substantively appointed as Registrar. Therefore, once such finding had been recorded, the writ petition itself was liable to be dismissed as not maintainable.

7. Learned counsel for the appellant also places reliance upon the judgment of the Hon'ble Supreme Court in ***B. Srinivasa Reddy v. Karnataka Urban Water Supply and Drainage Board Employees' Association, (2006) 11 SCC 731***, wherein it has been held that a writ of quo warranto would lie only when the appointment is contrary to

statutory rules and not where the challenge pertains merely to procedural irregularities or administrative discretion. The Hon'ble Supreme Court further held that the High Court cannot convert the writ jurisdiction into a roving enquiry regarding administrative decisions unless clear statutory violation is demonstrated. In the present case, entrustment of additional charge cannot by any stretch of imagination be treated as illegal occupation of a public office. Reliance is also placed upon the judgment of the Hon'ble Supreme Court in ***Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 8 SCALE 623***, wherein it has been held that even in public interest litigation, a writ of quo warranto would be maintainable only where appointment is contrary to statutory provisions. Learned counsel submits that the learned Single Judge failed to appreciate that the appellant was never appointed against any substantive or permanent vacancy and, therefore, the very basis of issuance of writ of quo warranto was legally untenable.

8. It is further stated by the learned counsel, appearing for the appellant that the learned Single Judge committed serious factual and legal error in paragraph 18 of the impugned order by observing that the "appointment" of the appellant on the post of Registrar stands quashed, despite admitted position that no substantive appointment order had ever been issued in favour of the appellant. The entire conclusion, therefore, proceeds on a fundamentally erroneous assumption of fact and is liable to be set aside on this ground alone. He further submits that the learned Single Judge has wrongly interpreted Section 26 of the Act of 1948 while observing that the Council possesses statutory power

“to appoint or make arrangement” for the post of Registrar, though the expression “or make arrangement” does not find place in the statutory provision. It is submitted that such interpretation amounts to reading words into the statute which are otherwise absent, thereby rendering the findings legally unsustainable.

9. It is further argued by the learned counsel for the appellant that temporary entrustment of additional charge is purely an administrative arrangement made in exigency of service and the same falls within the executive discretion of the State Government. Unless such arrangement is shown to be expressly prohibited by statute or tainted with mala fides, judicial interference is unwarranted. In this regard, reliance is placed upon the judgment of the Hon’ble Supreme Court in ***Central Electricity Supply Utility of Odisha v. Dhobei Sahoo, (2014) 1 SCC 161***, wherein the Hon’ble Supreme Court reiterated that Courts exercising writ jurisdiction ought not interfere with administrative arrangements unless there exists clear arbitrariness or statutory violation. He further stated that the learned Single Judge also failed to consider the judgment rendered by the Division Bench of the **Madhya Pradesh High Court in *Arun Singh Chouhan Vs. State of Madhya Pradesh & Others, W.P. No.11298/2021***, wherein the Court deprecated the practice of filing petitions in the nature of quo warranto for personal vendetta, political rivalry and publicity-oriented litigation, and consequently imposed exemplary costs upon the petitioner. It is submitted that the present writ petition was also motivated by personal animosity and ought to have been dismissed at the threshold instead of

being entertained as a public interest litigation. Thus, learned counsel for the appellant submits that the impugned order passed by the learned Single Judge is contrary to settled principles governing issuance of writ of quo warranto, suffers from manifest errors of law and fact, and amounts to unwarranted interference in a purely temporary administrative arrangement. Hence, the impugned order dated 03.03.2026 deserves to be set aside and the present writ appeal deserves to be allowed.

10. *Per contra*, learned counsel, appearing for respondent No. 4 submits that the impugned order passed by the learned Single Judge does not suffer from any illegality or perversity warranting interference in the present intra-Court appeal.

11. We have heard learned counsel for the parties at length and perused the material available on record.

12. The undisputed factual position emerging from the record is that the appellant was substantively holding the post of Pharmacist at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur and was merely entrusted with additional charge of the post of Registrar of the Chhattisgarh State Pharmacy Council by order dated 14.03.2024 as a temporary administrative arrangement. It is also not in dispute that no substantive appointment order appointing the appellant as regular Registrar of the Council was ever issued.

13. The principal question, therefore, which arises for consideration is whether mere entrustment of additional charge of the post of Registrar,

pending regular appointment, could have been subjected to interference in exercise of jurisdiction under Article 226 of the Constitution of India by issuance of a writ in the nature of quo warranto.

14. At the outset, it is necessary to notice the settled legal position governing issuance of a writ of quo warranto. In **C.D. Govinda Rao** (supra), the Constitution Bench of the Hon'ble Supreme Court authoritatively held that before issuance of a writ of quo warranto, the Court must satisfy itself that the office in question is a substantive public office and that the incumbent is holding such office without legal authority. The jurisdiction is intended to prevent usurpation of public office and not to examine every temporary or stop-gap administrative arrangement made by the executive.

15. Similarly, in **B. Srinivasa Reddy** (supra), the Hon'ble Supreme Court reiterated that a writ of quo warranto would lie only when the appointment is contrary to statutory provisions. The Court further held that unless there exists clear violation of mandatory statutory provisions, judicial review in the nature of quo warranto cannot be invoked to test administrative discretion.

16. In the present case, the learned Single Judge has proceeded on the basis that the appellant was holding the post of Registrar pursuant to an "appointment", whereas the record indicates that the appellant was only entrusted with additional charge of the said post. Once this factual position was noticed, the learned Single Judge could have examined the matter from the standpoint of the limited scope of quo

warranto jurisdiction, as laid down by the Hon'ble Supreme Court. Mere entrustment of additional charge, which is purely temporary in nature, cannot be equated with a substantive appointment to a public office.

17. We are also unable to persuade ourselves to agree with the reasoning that the State Government lacked competence to make interim arrangement for discharge of functions of the post in question. Section 26 of the Act of 1948 undoubtedly contemplates appointment of a Registrar with previous sanction of the State Government. However, the provision deals with substantive appointment and does not exclude or prohibit interim administrative arrangements being made to ensure smooth functioning of the Council till regular appointment is undertaken.

18. It is well settled that entrustment of additional charge is an administrative exigency resorted to avoid administrative vacuum and does not confer any substantive right upon the incumbent. Such arrangement neither creates a tenure appointment nor amounts to regular appointment under the statute. In absence of any express statutory prohibition, such temporary arrangement cannot be interfered with in exercise of writ jurisdiction unless shown to be arbitrary, mala fide or contrary to statutory mandate.

19. In the present case, it appears that the learned Single Judge has treated the temporary entrustment of additional charge at par with a substantive appointment under Section 26 of the Act of 1948 read with Rule 96 of the Rules of 1978. The distinction between a regular statutory appointment and a stop-gap arrangement pending such

appointment does not appear to have been duly appreciated. Rule 96, which prescribes eligibility and qualifications for the post of Registrar, operates in the field of regular appointment and not in respect of interim arrangements made in administrative exigency.

20. We further find substance in the submission advanced on behalf of the appellant that the process for amendment of the Rules and prescribing fresh eligibility criteria for appointment to the post of Registrar was already under consideration pursuant to recommendations made by the sub-committee constituted by the competent authority. During the interregnum, the appellant was entrusted with additional charge purely as a stop-gap arrangement to avoid administrative vacuum in the functioning of the Council.

21. The reliance placed by the learned Single Judge upon the principle laid down in ***Nazir Ahmad Vs. King Emperor, 1936 SCC OnLine PC 41***, though correct in principle, appears to have been applied in a context where the issue was not of non-compliance of a mandatory statutory procedure for substantive appointment, but of a temporary administrative arrangement. The said principle cannot be extended to invalidate interim arrangements made for administrative continuity unless expressly prohibited by statute.

22. We are also of the considered opinion that the scope of judicial review in matters relating to temporary administrative arrangements has been delineated by the Hon'ble Supreme Court in ***Dhobei Sahoo*** (supra), wherein it has been held that Courts ought not interfere unless

there is manifest arbitrariness, mala fides or clear statutory violation.

23. In the present case, no material has been brought on record to establish that the appellant has usurped the office of Registrar or that any substantive appointment contrary to statutory provisions has been made in his favour. On the contrary, the material available on record indicates that the arrangement was purely temporary and made in administrative exigency till regular appointment is undertaken in accordance with law.

24. In view of the aforesaid discussion, we are of the considered opinion that the conclusion arrived at by the learned Single Judge does not align with the settled principles governing writ of quo warranto, particularly with regard to the nature of the office and the status of the incumbent. Consequently, the impugned order does not appear to be sustainable in the facts and circumstances of the case and is liable to be set aside.

25. Accordingly, the writ appeal deserves to be and is hereby **allowed**. The impugned order dated 03.03.2026 passed by the learned Single Judge in WPS No. 773 of 2025 is set aside.

26. However, considering the fact that the post of Registrar of the Chhattisgarh State Pharmacy Council is a statutory post requiring regular appointment in accordance with Section 26 of the Act of 1948 and Rule 96 of the Rules of 1978, we deem it appropriate to direct the respondents No. 1 to 3 to undertake the process for regular appointment to the post of Registrar strictly in accordance with law.

27. Accordingly, respondent Nos. 1 to 3 are directed to initiate and complete the process for regular appointment to the post of Registrar of the Chhattisgarh State Pharmacy Council, strictly in accordance with the provisions of the Act of 1948 and the Rules of 1978, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of certified copy of this order.

28. Till such regular appointment is made, the appellant shall continue to discharge the duties and functions attached to the post of Registrar pursuant to the order dated 14.03.2024, subject to any further decision that may be taken by the competent authority in accordance with law. It shall also remain open for the competent authority to make such interim administrative arrangement as may be necessary for smooth functioning of the Council.

29. No order as to costs.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**

Head note

Mere entrustment of additional charge of the Registrar under the Pharmacy Act, 1948 read with the Pharmacy Council Rules, 1978, pending regular appointment, does not amount to holding a substantive statutory office. In absence of a valid appointment, the essential requirement for issuance of writ of quo warranto under Article 226 is not satisfied.