IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (CIVIL) NO. _____ OF 2022

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY ...PETITIONER

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

SYNOPSIS AND LIST OF DATES

Petitioner is filing this writ petition as a PIL under Article 226 seeking appropriate writ order or direction to Centre to adopt the *Indian Holistic Integrated Medicinal Approach* rather than *Colonial Segregated way of Allopathy, Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy* in order to secure the right to health guaranteed under Articles 21, 39(e), 41, 43, 47, 48(a), 51A of the Constitution of India.

CURRENT STATUS OF HEALTH CARE PROFESSIONALS

On 15.9.2020, in Rajya Sabha on question of availability of doctors per capita, the Minister of State, Ministry of Health and Family Welfare (Sh. Ashwini Kumar Choubey) said that as per information provided by Board of Governors in supersession of Medical Council of India (MCI), 12,55,786 Allopathic Doctors are registered in MCI. Assuming 80% availability, it is estimated that around 10 lakh doctors may be actually available for active service. It gives a doctor-population ratio of around 1:1500 as per current population estimate.

As per information provided by Board of Governors in supersession of Medical Council of India (MCI), 3,71,870 allopathic doctors have registered their specialist/post- graduate qualification with Medical Council of India/State Medical Council. It gives a doctor-population ratio of around 1:4000 as per current population estimate. On the other hand, World Health Organization (WHO) has promulgated desirable doctor–population ratio as **1:1,000**.

The Union Minister of State, Health and Family Welfare (Mr. Ashwini Kumar Chaubey) stated that as per information provided by the Indian Nursing Council (INC), there are around 8,92,829 Auxiliary Nurse Midwives (ANM), 21,51,850 Registered Nurses and Registered Midwives (RN&RM) and 56,644 Lady Health Visitors (LHV) in the Country and there is availability of 1.4 bed per 1000 people.

Petitioner submits that all these estimates are well below the WHO threshold of 44.5 doctor, nurses and midwives per 10,000 populations whereas the current situation is 20.6 health workers per 10,000 populations. A substantial proportion of active health worker were found not adequately qualified and more than 20% of qualified health professionals are not active.

Around half of the population is living below poverty line and around 70% dwelling in rural areas and 52% of these doctors are practicing in just five States – Maharashtra (15%), Tamil Nadu (12%), Karnataka (10%), Andhra Pradesh (8%) and Uttar Pradesh (7%). Thus, rural Indian areas still remain deprived of medicinal benefits. These results reflected highly skewed distribution of health workforce across States. Since the majority of Allopathic Doctors reside in 5 States, thereby restricting the medical benefits of other States by just providing them with remaining 48% population of doctors. As doctors are confined to a few States but patients reside across India, it has led to introduction of several health care mediators and they are ruining the integrity of Indian health care system as they tend to fetch more money from patients in the name of providing better treatment. This situation is highly un-ethical and illegal as it will deprive the diseased individuals from attaining health benefits due to their inability to pay high health expenses. In order to meet, WHO guidelines in India we have an alternative force of medical professionals who have always been neglected by the Government and are capable of providing a supporting hand to uplift our health care status.

There are 7.88 lakh Ayurveda, Unani and Homeopathy (AUH) doctors. Assuming 80% availability, it is estimated that 6.30 lakh AUH doctors may be available for service and considered together with allopathic doctors, it gives a doctor population ratio of around 1:1000.

NEGATIVE IMPACT OF EXPANDED PHARMACEUTICAL INDUSTRY

Globally, there is **123%** per capita increase in deaths from prescription drug overdoses between 2006-2014. Serious but nonfatal prescription drug overdose outcomes (e.g., hospitalization, brain damage) increased from 264,227 in 2006 to 807,270 in 2014 and constitute a death rate of 67.26%. Despite of the knowledge of the linkage between antibiotic use and resistance, there is significant worldwide misuse and overuse of antibiotics. The IMS Institute for Healthcare Informatics has estimated that this problem is costing health systems US$ 54 billion per year, equivalent to 0.9% of global total health expenditure. Whereas, as per WHO data on global health expenditures reveals that when it comes to out-of-pocket expenditure as proportion of current health expenditure, India is much worse in comparison to world average (65% for India versus world average of 20%). Being of this high pocket expenditure, 7% households falling below poverty line on health expenses.

Around 150 million patients are harmed every year by doctors' errors, the WHO warned, just a few days before celebrating World Patient Safety Day, with which it seeks to raise awareness of ongoing tragedy. While overall antibiotic prescribing rates have been increasing over past 10 years. A current key concern is rapid growth in drug resistant strains of *E. coli,* a microbe often responsible for urinary tract and bloodstream infections. Some drugs can't help but trigger side effects because of chemical structure. Common allergy drug diphenhydramine (Benadryl) is one. Though it eases allergy symptoms, it blocks chemical acetylcholine and that leads to drowsiness and host of other ill effects including dry mouth. In 2014, Tamil Nadu lost around 200 lives to drug overdose, followed Punjab which saw 186 deaths. It often results in a short-lived treatment of symptom rather than removal of disease. It does not boost immunity. In fact, endless usage of medicines reduces body's responsiveness, thereby rendering them ineffective.

26.04.2022: Many so-called revolutionary medical innovations have in long-run proven to be dangerous causing severe and long-term side-effects but Centre is not introducing Holistic Integrated Healthcare System. Hence, this PIL.

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PIL FOR A HOLISTIC INTEGRATED HEALTHCARE SYSTEM

THE HON'BLE CHIEF JUSTICE
AND LORDSHIP'S COMPANION JUSTICES
OF THE HON'BLE HIGH COURT OF DELHI
HUMBLE PETITION OF ABOVE-NAMED PETITIONER
THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this writ petition as a PIL under Article 226 seeking appropriate writ order or direction to Centre to adopt the *Indian Holistic Integrated Medicinal Approach* rather than *Colonial Segregated way of Allopathy, Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy* in order to secure the right to health guaranteed under Articles 21, 39(e), 41, 43, 47, 48(a), 51A of the Constitution of India.

2. Petition is not guided by self-gain or for gain of any other individual person, institution or body. There is no motive other than the larger public interest and national interest in filing this writ petition.

3. Petitioner has no personal interest or individual gain, private motive or oblique reasons in filing this PIL. It is totally bona-fide and in the interest of socially economically downtrodden citizens. Petitioner has not filed any other similar petition in this Court or any other Court.

4. The source of averments made in this PIL is personal knowledge and the information collected from government websites & newspapers.

5. Present petition is to secure right to health guaranteed under Article 21 of the Constitution. It is also for the benefit of poor, disabled, EWS and socially-economically down trodden citizens. As they are incapable of accessing this Hon'ble Court themselves, petitioner is filing this PIL to secure their fundamental right guaranteed under Article 21.

6. Centre is likely to be affected by the orders sought in this petition, which has been impleaded as Respondent. No other persons, bodies, institutions are likely to be affected by order sought in this petition.

7. Petitioner's full name is Ashwini Kumar Upadhyay. Residence at G-284, Govindpuram, Ghaziabad-201013 and office is Chamber No-15, M.C. Setalvad Building, Supreme Court of India, New Delhi-110001, Phone No: 08800278866, Email: aku.adv@gmail.com, PAN: AAVPU7330G, AADHAAR: 659982174779. Annual Income is Rs. 12 Lakh. Petitioner is an Advocate and a social-political activist, striving for the development of socially-economically downtrodden citizens. Petitioner's PILs on gender justice gender equality and dignity of women are pending. Petitioner is able to bear the cost, if imposed by the Court.

CURRENT STATUS OF HEALTH CARE PROFESSIONALS

8. On 15.9.2020, in Rajya Sabha on question of availability of doctors per capita, the Minister of State, Ministry of Health and Family Welfare (Sh. Ashwini Kumar Choubey) said that as per information provided by Board of Governors in supersession of Medical Council of India (MCI), 12,55,786 Allopathic Doctors are registered in MCI. Assuming 80% availability, it is estimated that around 10 lakh doctors may be actually available for active service. It gives a doctor-population ratio of around 1:1500 as per current population estimate.

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10. The Union Minister of State, Health and Family Welfare (Mr. Ashwini Kumar Chaubey) stated that as per information provided by the Indian Nursing Council (INC), there are around 8,92,829 Auxiliary Nurse

Midwives (ANM), 21,51,850 Registered Nurses and Registered Midwives (RN&RM) and 56,644 Lady Health Visitors (LHV) in the Country and there is availability of 1.4 bed per 1000 people.

11. Petitioner submits that all these estimates are well below the WHO threshold of 44.5 doctor, nurses and midwives per 10,000 populations whereas the current situation is 20.6 health workers per 10,000 populations. A substantial proportion of active health worker were found not adequately qualified on the other hand more than 20% of qualified health professionals are not active.

12. Around half of the population living below poverty line and around 70% dwelling in rural areas and 52% of these doctors are practicing in just five States – Maharashtra (15%), Tamil Nadu (12%), Karnataka (10%), Andhra Pradesh (8%) and Uttar Pradesh (7%) therefore rural Indian areas are remained deprived of medicinal benefits. The results reflected highly skewed distribution of health workforce across States. Since the majority of Allopathic Doctors resides in 5 States thereby restricting the medical benefits of other States by just providing them with remaining 48% population of doctors. Although doctors are confined to few States but patients reside across India. This situation

has led to introduction of several health care mediators and they are ruining integrity of Indian health care system as they tend to fetch more money from patients on the name of providing better treatment. This situation is highly un-ethical and illegal as it will deprive the diseased individuals from attaining health benefits due to their inability to pay high health expenses. In order to meet, WHO guidelines in India we have an alternative force of medical professionals those have always experienced negligence from Government end and is capable of providing a supporting hand to uplift our health care status.

13. There are 7.88 lakh Ayurveda, Unani and Homeopathy (AUH) doctors. Assuming 80% availability, it is estimated that 6.30 lakh AUH doctors may be available for service and considered together with allopathic doctors, it gives a doctor population ratio of around 1:1000.

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14. Globally, there is **123%** per capita increase in deaths from prescription drug overdoses between 2006-2014. Serious but nonfatal prescription drug overdose outcomes (e.g., hospitalization, brain damage) increased from 264,227 in 2006 to 807,270 in 2014 and constitute a death rate of 67.26%. Despite of the knowledge of the linkage between antibiotic use

and resistance, there is significant worldwide misuse and overuse of antibiotics. The IMS Institute for Healthcare Informatics has estimated that this problem is costing health systems US$ 54 billion per year, equivalent to 0.9% of global total health expenditure. Whereas, as per WHO data on global health expenditures reveals that when it comes to out-of-pocket expenditure as proportion of current health expenditure, India is much worse in comparison to world average (65% for India versus world average of 20%). Being of this high pocket expenditure, 7% households falling below poverty line on health expenses.

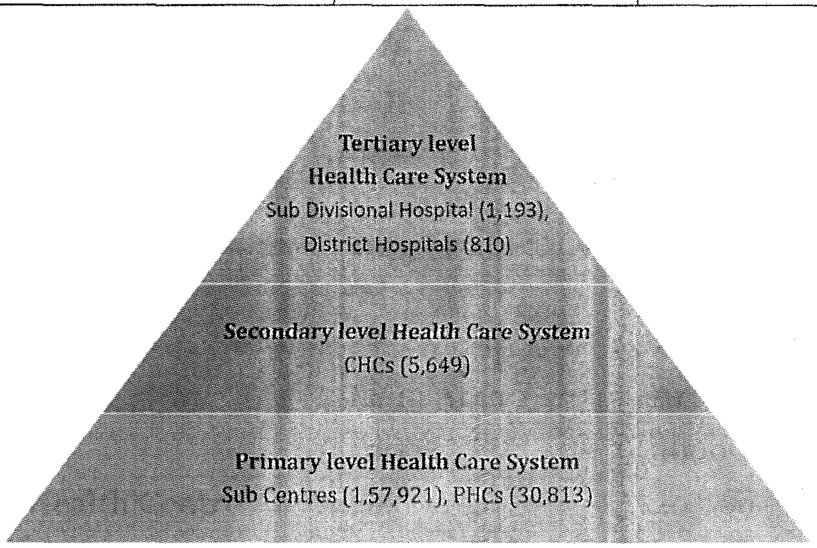
15. It is respectfully submitted that around 150 million patients are harmed every year by doctors' errors, the WHO warned, just a few days before celebrating World Patient Safety Day, with which it seeks to raise awareness of ongoing tragedy. While overall antibiotic prescribing rates have been increasing over past 10 years. A current key concern is rapid growth in drug resistant strains of *E. coli,* a microbe often responsible for urinary tract and bloodstream infections. Some drugs can't help but trigger side effects because of chemical structure. Common allergy drug diphenhydramine (Benadryl) is one. Though it eases allergy symptoms, it blocks chemical acetylcholine and that leads

to drowsiness and host of other ill effects including dry mouth. In 2014, Tamil Nadu lost around 200 lives to drug overdose, followed Punjab which saw 186 deaths. It often results in a short-lived treatment of symptom rather than removal of disease. It does not boost immunity. In fact, endless usage of medicines reduces body's responsiveness, thereby rendering them ineffective.

GROUND STATUS OF HEALTHCARE SECTOR IN INDIA

16. It is respectfully submitted that in spite of huge investment, current health care system of India is not able to meet its standards and benefit Indian population to fight against acute and chronic diseases. Healthcare delivery in India is classified under three categories – primary, secondary and tertiary care. All three levels need to work in a cohesive manner to help delivery of healthcare on all the four pillars. Petitioner respectfully submits that in the healthcare system of India, Sub-Centers and Primary Health Centers subsidize in the primer level of HCS; Community Health Centre contribute secondary level of HCS; although hospitals and medical collages are considered in the tertiary level of HCS. Population Norms for Rural Health Care Infrastructure are as given on next page.

Centre	Population Norms	
	Plain Area	Hilly/Tribal/Difficult Area
Sub Centre	5000	3000
Primary Health Centre	30,000	20,000
Community Health Centre	1,20,000	80,000



17. The Primary Health Care Infrastructure has been developed as a three-tier system with Sub Centre, Primary Health Centre (PHC) and Community Health Centre (CHC) being the three pillars of Primary Health Care System. There are 155404, 24918 rural SCs and PHCs functioning in the country as on 31st March, 2020, respectively. Over the years, a number of PHCs have been upgraded to the level of CHCs in many States. As on 31st March 2020, total 5183 CHCs are functioning in rural areas (NHP, 2020).

18. In urban areas, Sub-centers are not envisaged in the urban areas as distances and mode of transportation are much better here and also there is closer proximity and accessibility of health facilities. As on 31st March 2020, there are 2517 at the level of SC is functional in the urban areas of the country. As on 31st March 2020, there are 5895 urban-PHCs (U-PHCs) are functional in the country. The norms for urban CHC are same as rural CHCs. As on 31st March 2020, there are 466 urban- CHCs (U-CHCs) functional in urban areas of the India.

19. As on 31.3.2020, total Sub Divisional Hospital and District Hospitals are 1193 and 810 respectively. There are total number of functional Sub Centers, PHCs, CHCs, Sub Divisional Hospital and District Hospitals are 157921, 30813, 5649, 1193 and 810 respectively, in the India. There are 274 medical colleges to support healthcare system especially modern medicine. In present scenario, modern medicine has remained to be a chief medical source to treat several illnesses but being the only solution, has enhanced our dependency on this medicinal practice. It has led to significant loss of both our health and simultaneously wealth also as we are solely dependent to adopt the medicinal strategies proposed by modern medicine whether it's correct or untrue.

LACK OF HEALTH CARE INFRASTRUCTURE AND WORKERS

20. An analysis of responses received to a field study conducted as a prelude to writing the report shows that 80% of UMPs interviewed (out of 30 UMPs) were 12th pass or below; 66% gained knowledge of new drugs development through private doctors in the vicinity, medical representatives and chemists and 70% UMPs were storing and administering anti-biotics, steroids and parenteral. More than 85% of them agreed that they were using around 21 drugs listed in the questionnaire. These included antipyretics, antiemetics, antacids, painkillers, antispasmodics and a range of antibiotics. Their sources of information were stated to be medical representatives sent by pharmaceutical companies.

21. According to Indian Public Health Standards, there was a 20% shortfall in the number of SCs, a 22% shortage in the number of PHCs and a 30% shortfall in the case of CHCs. Most functioning rural health facilities were deficient in essentials as nearly 30% of the SCs did not have regular water supply, 26% lacked electricity and 11% did not have all-weather connecting roads. 63% PHCs did not have an operation theatre and 29 % lacked a labor room.

22. According to data supplied by Health Management Information System of MOHFW there is a huge shortfall of surgeons (83.4%), obstetricians and gynecologists (76.3%), physicians (83.0%) and pediatricians (82.1%). Overall, there was a shortfall of 81.2% specialists at the CHCs vis-a-vis the requirement for existing CHCs (SNU 2019). As per the Rural Health Statistics 2019-20, total shortfall of rural health care workers is 2,65,551 in India.

TREATMENT PREFERENCES OF URBAN / RURAL POPULATION

23. More than 70% (72% in rural areas and 79% in urban areas) spells of ailment were treated in the private sector, consisting of private doctors, nursing homes, private hospitals and charitable institutions. The number of people reporting sick is more in urban India compared to rural areas, as per survey. During a 15-day reference period, 89 of every 1,000 persons—Proportion of Ailing Persons (PAP)—reported an illness in rural India, against 118 persons in urban areas (TOI, 2015). In rural India, 42% of hospitalized treatment was carried out in public hospitals. In urban India, the corresponding figure were 32% (TOI, 2015). Since both rural and urban India depended on private hospitals for treatment, their spending for hospitalization was also higher.

24. The average cost of treatment in a private hospital was Rs 25,850 as compared to Rs 6,120 charged in a public hospital (TOI, 2015). To address this, policy frameworks in several states have mandated compulsory rural service of 1-5 years during postgraduate medical studies. Further, some states require medical officers to practice medicine in rural areas for a particular period after postgraduate studies. Poor living and working conditions, irregular drug supply, weak infrastructure, professional isolation & burden of administrative work--these are some of the challenges faced by doctors on rural postings, stated a 2017 study by Public Health Foundation of India.

25. Recent Government data showed that country-wide there are over 20% vacancies of doctors in the PHCs which do not take into account high levels of absenteeism among doctors and supporting staff. According to the erstwhile Vice-Chairman of the Niti Aayog, "the rampant employee absenteeism happens to be the primary culprit (among others such as poor state of infrastructure and inadequate supply of drugs and equipment) that discourage people from seeking health services provided by the Government system. Across the country, the average absentee rate is reported to be 40%.".

26. The highest expenditure was recorded for treatment of cancer (Rs 56,712), followed by that for cardiovascular diseases (Rs 31,647). Average medical expenditure per non-hospitalization case was Rs 509 in rural India and Rs 639 in urban India (TOI 2015). The reliance on pharmacies makes a big dent in family budgets in India. Pharmacies accounted for 52% of the out-of-pocket expenses incurred for buying medicines: Eighteen times more than the expenses incurred in general government hospitals (3%), more than two times the expenses in private general hospitals (22%), as per the household health expenditures in India report released in 2016. In India, 65 per cent of health expenditure is out-of-pocket, and such expenditures push some 57 million people into poverty each year (Indiaspend 2018).

27. Petitioner respectfully submits that as of 2018, India has 497 medical colleges registered with the Medical Council of India that together offer an intake capacity of 60,680 seats for MBBS. Trends in India, as well as other BRICS nations such as South Africa, suggest that most doctors prefer to sign up for hospital-based specializations in urban areas than get into general practice at PHCs, a 2015 study published in Human Resources for Health observed (Indiaspend 2018).

28. Despite government's attempt over the years to popularize Ayurveda, Yoga or Naturopathy Unani, Siddha and homoeopathy practices, the people at large are still inclined towards allopathy treatment both in rural and urban India. Major reason for such preferences is negligence of AYUSH practitioner in providing stand to their medicinal protocol. Number of institutes, training centers, appropriate infrastructure is not up to mark to make people believe in this therapeutic solution.

29. Modern medicine practitioners have remained confined to their own niche which has restricted them to avail knowledge of other medicinal practices and thereby cannot benefit the diseased individuals by using other therapeutic regimens. Moreover, established provisions regarding their practice doesn't permit them to use other medicinal systems in order to provide maximum health benefits. Henceforth, it is highly needed to establish integrated medicinal system to enable those practitioners who are willing to prescribe medicines of other domains.

30. Several doctors practicing modern medicine also agreed to potential of alternative medicine and they stated that: **(a)** As per a recent study, Allopathy has authentic treatment for only 17 diseases. In this, the treatment of other diseases is symptom based. Whereas there are 21

diseases, whose complete treatment is possible outside allopathy. One of the main investigators of this study, Dr. Aman Gupta explains- *It is not possible to completely cure diseases like common cold to cancer, asthma, allergies, arthritis, dengue, Ebola, genetic disorders, diabetes, HIV infection, obesity, polio.* Another investigator Dr. Bindiya said- Corona has brought to the fore the helplessness of all treatment methods. Apart from allopathy, other medical methods were also tried to treat corona. Now there is a need for coordination of all medical systems. In such a situation, patients can be benefited by using each other as a complement **(b)** Syal Kumar Department of Integrative Medicine, University Hospital Essen, Essen, Germany., says that Ayurvedic Massage with Sahacharadi Taila helps to relive the patients with Chronic Low Back Pain **(c)** Kishore Kumar Ramakrishna from National Ayurveda Dietetics Research Institute, Bangalore, India highlighted the efficacy of Ayurvedic medicine in psychopathology, heart rate variability and stress hormonal level in major depression.

INITIATIVES TO SUPPORT ALLIED HEALTH PROCESSIONALS

31. Three years after issuing an order allowing practitioners of AYUSH (Ayurveda, Yoga, Unani, Siddha, Homoeopathy) appointed at primary

health centers (PHCs) of Karnataka to practice allopathy "during emergencies", the Health and Family Welfare Department has taken a U-turn and withdrawn the permission. The department issued an order on 7th September 2020 withdrawing its earlier order, dated January 5, 2017. They prohibited any person from practicing modern medicine, popularly known as the allopathic system, unless he or she holds the necessary medical qualification to practice upon registration in any State medical register (The Hindu, 2020).

32. It is respectfully submitted that Under National Health Mission (NHM), a Bridge Programme in Community Health for Nurses was designed and developed with Indira Gandhi National Open University (IGNOU). Subsequently, a common Bridge Programme for Nurses and Ayurveda practitioners was approved by IGNOU. The Bridge Course has already been rolled out in States as per proposal received from States. The Ayurveda practitioners and Staff Nurses after being trained in primary care and public Health competencies through the bridge course are envisaged to be placed as Mid-Level care providers in Sub Health Centres to be strengthened as Health and wellness Centres (Press Information Bureau, 2018).

33. It was a certificate course in community health (BPCCHN) with minimum duration: 6 Months, maximum duration: 2 Years, course fee: Rs. 15,000 (IGNOU, 2019 Bridge course would have enabled nurses and Ayurveda practitioners to prescribe modern medicine and would have acted as additional task force to deal with any emergency but after 3 years of implementation Government withdrew their decision of providing equal status to these practitioner's equivalent to that of doctors practicing allopathic medicine (IGNOU 2019).

34. Maharashtra University of Health Sciences (MUHS) has declared that more than 91% of the total 1,245 candidates have successfully cleared the modern mid-level service provider's course. The much talked about bridge course allows Bachelor of Ayurveda Medicine and Surgery (BAMS) doctors to practice allopathy to a certain extent at Health and Wellness Centers (HWCs) across the state (TOI, 2019).

35. The IMA has named these programs as khichdi training, a mishmash that works well for food, but not for education, producing substandard doctors. National Education Policy released by the HRD ministry briefed that people exercise pluralistic choices in healthcare, our healthcare education system must be integrative meaning thereby that all students

of allopathic medical education must have a basic understanding of ayurveda, yoga and naturopathy, unani, siddha, and homeopathy (Ayush), and vice versa" - they are trying to introduce sweeping changes in medical education and the delivery of health services.

36. As mentioned above, several initiatives have been adopted by Government of India, to uplift status of T & CM. But just taking measures to uplift its status is not sufficient. Till now implementation of these bills couldn't be found anywhere. As mentioned by HRD ministry we require an integrated medicinal approach both at education and training level to justify the guidelines posed by WHO and to provide 1 doctor over population of 1000 people. Modern medicine should run parallel with TM in terms of practitioners, infrastructure, budgetary allowances, educational system to fulfil the requirement of medicinal practitioners. Regarding the same we plead our government to take necessary steps for the same.

37. An Integrated Health System is only solution to achieve sustainable health goal of India. Commonly preferred allopathic medicine is chiefly comprised of approximately 40% plant derived components (USDA Forest Service 2021). If allopathic medicine is originally made of

constituents of AYUSH then why not, we can accept them directly as part of our regular medicinal support system. Choice of plant-based material as raw constituents to prepare medicine will also help to boost current situation of farmers as it will help them to earn more income, generate revenue for the respective Government and ultimately this will reduce our reliance on modern medicine and henceforth the overburdened medicinal practices and their associated side effects and miss-uses can be significantly reduced (USDA Forest Service 2021).

38. It is respectfully submitted that in India, parents and students must pay expensive fees for medical education, which are a significant financial hardship and out-of-pocket expense for a middle-class household. The family may be forced to take out loans to pay for the medical education. On average, private and deemed medical institutions charge anywhere between Rs. 5 lakh and Rs. 50 lakh per annum as opposed to a Government Medical College, which charges between Rs 50 thousand and Rs 1 lakh per annum (DNA India, 2017). As a result, most doctors are unable to emotionally connect with their patients and their treatment after completing their education. Because their primary goal is to repay their debts and other expenses first.

39. Modern medicine practitioners don't prefer to serve their duties in rural areas. The major reason lies behind the same is, they are unable to fetch more money on the name of medical treatment from rural people hence they are unable to earn huge sum of money from them. In rural areas majority population lies below the poverty line therefore they can't afford to pay high medical expenses which has remained to be major factor for modern medicine practitioner to remain unavailable in rural areas because their priority remains to earn more money from their profession rather than serving our society. Certain modern medicine practitioners are willing to serve rural population in order to provide them health benefits but in spite of their wish they cannot do so reason being of repayment of their loans which they availed to complete their medical education because of which they feel burdened and therefore they prefer to provide their services in urban areas which are more financially competent in comparison to rural areas.

40. Best way to encounter these problems is the Holistic integrated medicinal approach which will comprise of a combination of modern medicine along with traditional and complementary medicine at level of education, training, practice and policies & regulations to enhance

status of health care sector in India. This is not the first time we are proposing integrated health system in world. These practices have remained in run from past more than 70 years in different countries of world for example China, Japan, Korea and Germany. In these countries T & CM run parallel in accordance with modern medicine. They have specific framework to integrate T & CM along with modern medicine as part of their regular educational curriculum, training program and status of these traditional practitioners have been legalized by the respective Governments. These practitioners are honored with equal rights to that of modern medicine.

41. A lot of medical universities like South Baylo University in United States, Acupuncture and integrative medicine college in Berkeley, Chengdu University of Traditional Chinese Medicine, Chengdu, and Beijing university of Chinese medicine Chaoyang in China, are one of the earliest traditional Chinese medical institutions for higher learning with integrative medicinal approach.

42. Traditional Chinese medicine is a part of educational curriculum in several universities across the world. Whereas the most ancient, highly robust and efficient Indian traditional medicinal system, which is far

ahead than any other system is not a part of educational curriculum in India itself. However, at present our ancient Indian medicinal system is having availability of evidence-based medicines then why we cannot keep it as part of our educational curriculum and medicinal practices?

43. Our Indian students who are seeking medical education in China have to mandatorily go through with TCM because it is a part of their medical education curriculum (which is not practicable in Indian scenario). Then why not our Indian practitioners are legally permitted to practice Indian medicinal system in India itself. To facilitate this, it should mandatorily be a part of our medical education system.

44. We want to establish a system which is not solely dependent on any particular pathy rather we should be focused on evidenced based medicine as well as other currently existing competent medicinal approaches such as Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy. Practitioners belonging to diverse medical streams should have understood of all competent medicinal regimes and the only solution to establish this approach is the integrated medicinal system.

45. In China, their traditional medicinal system is well versed and more recognizable globally after adopting the integrated approach. But it is

quite unfortunate that more ancient and highly efficient Indian Medicinal system is facing biasness and opposition within the country itself. Henceforth, it is mandatory to legally accept the Integrated medicinal system as a part of medical education and practices.

46. Due to integrated medicinal approach adopted by China, TCM along with acupressure have gained popularity across the globe. It is much needed in case of Ayurveda too, so that Marma-therapy, Panchkarma, Yoga and other healing practices could be recognized as an effective healing therapy at global platform.

47. In India, admission criteria to enter into medical courses have remained same for all the students as they covered similar syllabus at their higher secondary education level. In terms of education, they could avail the expertise in any medical stream but mandatorily they should possess knowledge of all competent medical regimes.

48. Henceforth, we request that integrated medicinal system should be introduced in currently ongoing medicinal curriculum at both educational and practice level. Otherwise, a separate curriculum should be launched as MBBS integrated medicine in which both modern and traditional medicine will be a part of same curriculum.

49. In order to establish integrated medicinal system, Government have already made certain amendments to enable these provisions to become a part of health care policies. But so far adopted strategies are not sufficient to provide adequate platform to integrated medicinal approach. Therefore, it is mandatory to make appropriate amendments to legalize the status of integrated medicinal system.

50. Myths, lack of knowledge/awareness, biasness of many self-concerned Pharma companies and drug industries are making arbitrary statements against integrated medicinal approach using various platforms in India which had previously also damaged our health care system and is continuing the same, ultimately leading to health crisis.

51. Petitioner submits that the suggested holistic integrated medicinal approach will favor the financially deprived section of Indian population as this approach will be pocket friendly with high reach and will be able to cover such huge dense population of the country thus making the medical education available for one and all and to support evidence-based medicine not any particular pathy. It will also help them to build a sense of responsibility to serve their society which cannot be possible in case of modern medicine.

52. The right to health is an integral facet of meaningful right to life, to have not only a meaningful existence but also robust health and vigor without which a person would lead a life of misery. Lack of health denudes him of livelihood. The right to health and medical care is a fundamental right under Article 21 read with Article 39(e), Article 41 and 43 of the Constitution and makes the life of the person meaningful and purposeful with dignity of person. Right to life includes protection of the health and strength of the worker and is a minimum requirement to enable a person to live with human dignity. The State, be it Union or State Government or an industry, public or private, is enjoined to take all such actions which will promote health, strength and vigor of the workmen during the period of the employment and leisure and health even after retirement as basic essentials to live the life with health and happiness. The health and strength of is an integral facet of right to life. Denial thereof denudes the person of the finer facets of life violating Article 21. Right to human dignity, development of personality, social protection, right to rest and leisure are fundamental human right assured by the charter of human right, in the Preamble and Article 38 and 39 of the Constitution.

53. Right to health, medical aid to protect the health and vigor while in service or post retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 47, 48(a), 51A and related Articles and fundamental human rights to make the life of the person meaningful and purposeful with the dignity of person. Failure of a government hospital to provide timely medical treatment to a patient in need of such treatment amounts to violation of right to life under Article 21. But right doesn't extend to use of private hospitals facilities or reimbursement of its cost to the government employee unless such reimbursement is provided for. Right to health i.e. right to live in clean, hygienic and safe environment is a right flowing from Article 21. It guarantees a right of person to life with human dignity. Right to live in freedom from noise pollution is a fundamental right under Article 21. Noise constitutes a real and present danger to people's health, such that use of fireworks during 10pm to 6am was prohibited. Clean surrounding lead to healthy body and healthy mind. Where menace of stray cattle has reached a stage where the entire planning of the city had gone haywire and the stray cattle were creating nuisance for citizen, same was held violative of rights under Article 21.

54. Enjoyment of life and its attainment including right to life and human dignity encompasses within its ambit, protection and preservation of environment, ecological balance, pollution free air and water, sanitation without which life cannot be enjoyed. Environmental, ecological, air, water pollution, etc. should be regarded as amounting to violation of Article 21. Hygienic environment is an integral part or facet of right to healthy life and it would be impossible to live with dignity without a humane-healthy environment. Environmental protection has become a matter of concern for human existence. Promoting environmental protection implies maintenance of environment as a whole comprising the manmade natural environment. There is a constitutional imperative on the Union States and local bodies not only to ensure and safe guard proper environment, but also an imperative duty to take adequate measures to promote protect and improve man made environment and natural environment. Providing separate schools with vocational training, hostels etc. for children of lepers is just and is in accordance with Article 21. The Court has depended upon Articles 47-48 as well as Article 51A to decide cases on various environmental problems and for giving necessary direction to the authorities.

55. Right to healthy environment is internationally recognized essential. Basel Convention effectuates the fundamental right guaranteed under Article 21 Right to Information, Community participation for protection of environment and human health. Since time immemorial, people across the world have always made efforts to preserve and protect natural resources like air, water, plants, flora and fauna and majority of people consider it as their sacred duty to protect the plants, trees, river, wells, etc. because it is believed that they belong to all living creatures. Ancient Roman Empire developed a legal theory 'Doctrine of Public Trust'. It was founded on the premise that certain common properties such as air, sea, water and forest are of immense importance to the people in general and they must be held as a trusty for the free and unimpeded use by the general public and it would be holy unjustified to make them subject to private ownership. Although the Constitution did not contain any express provision for protection of environment and ecology, people continued to treat it as their social duty to respect the nature, natural resources and protect environment and ecology. Later, Article 48(a) was inserted and State burdened with the responsibility of making an endeavor to protect and improve the environment.

56. Article 51A was inserted with Article 48(a). Any violation of the above duties results in violation of fundamental right to life guaranteed to the people of area under Article 21. The word 'Environment' has a broad spectrum and within its ambit fall 'hygienic atmosphere' and ecological balance. The State is thus obliged to maintain hygienic atmosphere and ecological balance. Article 21 protects right to life and it encompasses within its enjoyment of life and right to life with dignity, protection and preservation of environment, ecological balance free from pollution of air and water without which life cannot be enjoyed. Environmental, ecological, air and water pollution etc. amount to violation of Article 21. Hygienic environment is thus an integral part of health. Life as it is not possible to live without human dignity, without a humane and healthy environment. Therefore, there is constitutional imperative on the Government, not only ensure and safeguard proper environment, but also to take adequate measures to promote, protect, an improve both manmade and natural environment. Article 48-A, brought by the Constitution (42nd Amendment) Act 1976 enjoins that 'State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the Country'.

57. Article 47 further imposes a duty on the State to improve public health as its primary duty. Article 51-A (g) imposes a 'fundamental duty' on every citizen to protect and improve 'natural environment' including forests, lake, rivers and wildlife and to have compassion for living creature. The word environment is broad spectrum and brings within its ambit 'hygienic atmosphere' and 'ecological balance'. In view of Article 21, read with Articles 48A, 51-A (g), it is the obligation of the local authority to scavenge and clean the city. Non-availability of funds and insufficiency of machinery cannot be ground for not during so. It also included decent environment, right to live peacefully, right to sleep at night and have a right to leisure. Any provision prohibiting the general public from entering the green park is violation of Article 21 since every person has right to breathe fresh air. Right to know is basic right, which citizens of free country aspire, in the broader horizon of the right to live in this age in our land under Article 21. (Reliance Petrochemicals Limited (1988) 4 SCC 592: AIR 1989 SC 190) Water is the basic need for the survival of human beings, is part of right to life and human rights as enshrined in Article 21, and can be served only by proving source of water where there is none. (NBA (2000) 10 SCC 664)

58. As individual is entitled to sleep as comfortably and as freely as he breaths. Sleep is essential for human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, fundamental in basic requirement without which the existence of life itself would be peril. To disturb sleep, therefore, would amount to torture, which is now accepted as violation of human right. It would be similar to a third-degree method, which at times is sought to be justified as a necessary police action to extracts the truth out of an accused involved in heinous and cold blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep. (Ramleela Maidan Incident, In Re (2012) 5 SCC 1 (Para 327)) Right to life would take within its sweep, the right to food, clothing, decent environment and a reasonable accommodation to live in. (Shantistar Builders v Narayan (1990) I SCC 520) Right to health is integral to right to life. Government has a constitutional obligation to provide health facilities. Expenditure incurred by a government servant for treatment at a special approved hospital is to be reimbursed by the state to the employee. (State of Punjab versus M.S. Chawla (1997) 2 SCC 83)

PRAYERS

Keeping in view the above stated facts and circumstances, it is respectfully prayed that the Hon'ble Court may be pleased to issue an appropriate writ, order or direction to the respondents to:

a) adopt the *Indian Holistic Integrated Medicinal Approach* rather than *Colonial Segregated way of Allopathy, Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy* in order to secure right to health, the most important human right guaranteed under Articles 21, 39(e), 41, 43, 47, 48(a), 51A(g), 51A(j) of the Constitution;

b) implement a Holistic Integrated Common Syllabus and Common Curriculum of Allopathy, Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy for all Medical Colleges in order to secure right to health guaranteed under Articles 21, 39(e), 41, 43, 47, 48(a);

c) alternatively, direct the Centre to constitute an Expert Committee having Experts of Allopathy, Ayurveda, Yoga, Naturopathy, Unani, Siddha & Homeopathy to examine *Integrated Healthcare Approach* of the developed countries and particularly China and Japan;

d) pass such other order(s) as the Court deems fit and proper.

26.04.2024 (Ashwini Kumar Upadhyay)

New Delhi Petitioner-In-Person