

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY,THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

W.A.No.1308 of 2015 IN WP(C)30612/2014

AGAINST THE JUDGMENT IN WP(C) 30612/2014 of HIGH COURT OF KERALA DATED 13-03-2015

APPELLANT/PETITIONER IN THE WRIT PETITION:

DR.JOSE ISSAC, LECTURER,
DEPARTMENT OF ORGANON OF MEDICINE,
GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE,
THIRUVANANTHAPURAM.

BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)

RESPONDENTS/RESPONDENTS 1 TO 4 IN THE WRIT PETITION:

1. GOVERNMENT OF INDIA, REPRESENTED BY THE SECRETARY,
MINISTRY OF HEALTH AND FAMILY WELFARE,
DEPARTMENT OF INDIAN SYSTEMS OF MEDICINE AND HOMOEOPATHY,
RED CROSS BUILDING, NEW DELHI, PIN-110 001.
2. CENTRAL COUNCIL OF HOMOEOPATHY, REP BY ITS SECRETARY,
I.R.C.S. BUILDINGS, NEW DELHI- 110 001.
3. THE PRESIDENT,
CENTRAL COUNCIL OF HOMOEOPATHY,
IRCS BUILDINGS, NEW DELHI - 110 001.
4. UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR,
THIRUVANANTHAPURAM 695 001.
5. THE KERALA UNIVERSITY OF HEALTH SCIENCES,
REPRESENTED BY ITS REGISTRAR, MULANKUNNATHUKAVU,
THRISSUR 650 001.

R5 BY ADV. SRI.P.SREEKUMAR, SC, KERALA UTY. HEALTH & AMP;
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.1308 of 2015

Dated this the 29th day of June, 2015

JUDGMENT

Antony Dominic, J.

The petitioner in W.P.(C)No.30612/2014 has filed this appeal aggrieved by the judgment of the learned Single Judge dismissing the writ petition.

2. We heard the counsel for the appellant, Assistant Solicitor General appearing for respondents 1 to 3 and the respective Standing Counsel appearing for respondents 4 and 5.

3. The claim in the writ petition was that despite the appellant being a member of the Faculty of Homeopathy in the Central Council of Homeopathy constituted under the provisions of the Homeopathy Central Council Act 1973, the said membership was not recognised when Exts.P6 and P7 were issued by the Central Council for its meeting that was scheduled to be held on 27.11.2014. However, this claim of the appellant was declined to be accepted by the learned Single Judge, on the finding that he is no longer a member of the Central Council as claimed by him. It is this judgment, which is under challenge.

4. Admittedly, having regard to the provisions of Section 7 of the Homeopathy Central Council Act, a person who is nominated to the Central Council by a University though he is entitled to retain that nomination for a period of five years, his continuance in Council would also depend upon his continuance in the Faculty of Homeopathy in the University which nominates him. In so far as the appellant is concerned, admittedly, his first election to the Faculty of Homeopathy of the Kerala University was in 2003 and he was again elected in 2006. His term expired in 2009. Thereafter he was re-elected only in 2013 by Ext.R4(a). This, therefore, means that his membership in the Central Council automatically ceased by virtue of Section 7(4) of the Act when he is ceased to be a member of the Faculty of the Kerala University which nominated him. After his re-election he has not been nominated by the Kerala University also. That apart, after the implementation of the Kerala University of Health and Allied Sciences Act, 2010, the course in Homeopathy is now being controlled by the new University and the new University has already nominated a person to the Faculty to the Central Council.

5. In such circumstances, there is no merit in the assertion of the appellant that he still continues as a member of the Faculty of the Central Council. The view taken by the learned Single Judge, according to us, does not suffer from any infirmity.

Writ appeal is dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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