

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No.900 of 2014 (J)

PETITIONER :

**K.PRABHAKARAN, AGED 58 YEARS,
S/O KUMARAN, RESIDING AT SWASRAYA,
CC XIV/961, NAZRETH, KOCHI 682002**

**BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.HARIHARAN**

RESPONDENTS :

- 1. SUB INSPECTOR OF POLICE
NORTH PARUR POLICE STATION
ERNAKULAM DISTRICT 683513**
- 2. THE DIRECTOR,
DIRECTORATE OF INDIAN SYSTEM OF MEDICINES
THIRUVANANTHAPURAM 695001**
- 3. T.K. CHAKRAVARTHI,
LAXMI CLINIC, VARAPPUZHA ROAD
NEAR RELIANCE SUPER MARKET, NORTH PARUR 683513**

**BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN
R3 BY ADV. SRI.GEORGE SEBASTIAN
ADV. SRI.BYJU KURIAKOSE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 900 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE WRITTEN COMPLAINT DATED 12-10-2013
MADE BY THE PETITIONER BEFORE THE 1ST RESPONDENT
AGAINST THE 3RD RESPONDENT**
- EXHIBIT P2 : TRUE COPY OF THE WRITTEN COMPLAINT DATED 12-10-2013
MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT
AGAINST THE 3RD RESPONDENT**

RESPONDENT(S)' EXHIBITS

- EXHIBIT R3(A) : A TRUE COPY OF THE CERTIFICATE DATED 1.3.2008 ISSUED
BY THE KERALA AYURVEDA PARAMBARYA VAIDYA FORUM**
- EXHIBIT R3(B) : A TRUE COPY OF THE IDENTITY CARD DATED 1.10.2012
ISSUED BY THE KERALA AYURVEDA PARAMBARYA VAIDYA
FORUM**
- EXHIBIT R3(C) : A TRUE COPY OF THE GOVERNMENT ORDER (MS) NO.145/09
DATED 4.6.2009.**

/TRUE COPY/

PA TO JUDGE

VS

K.HARILAL, J

W.P.C.No.900 of 2014

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner is a resident of Nazareth in Kochi, and the third respondent is allegedly a medical practitioner, treating piles. It is the case of the petitioner that, the third respondent is not a qualified medical practitioner and he has no qualification to practice modern medicine. But it is learned that, the third respondent hails from West Bengal and he is doing treatment on a hereditary basis without any registration as required under the Travancore Cochin Medical Practitioners Act, 1953 (hereinafter called 'the Act'). When the petitioner came to know that he is not a qualified medical practitioner and is cheating people as if he is a qualified doctor, he made Ext.P2 complaint before the second respondent who is competent to initiate action against the third respondent for the violation of the provisions under the said Act. But the second respondent has not taken any action so far. This is the grievance projected by the petitioner in this

writ petition.

2. This writ petition is filed with a prayer to issue a writ of mandamus for appropriate directions commanding the respondents 1 and 2 to consider and take action on Ext.P1 complaint filed by the petitioner. The third respondent filed a counter affidavit contending that, he is a person exempted from taking medical registration under the Act, by virtue of Ext.R3(C) order (MS)No.145/09 dated 4.6.2009 passed by the government. It is also contended that, he is a 'parambarya Vaidhyan' coming under Ext.R3(C) of the Act. The state government has powers to exempt from taking registration under the proviso to Section 38(1) of the Act, and Division Bench of this court has justified such exemptions in **Kerala Homoeo Medical Graduates Association v. State of Kerala [2005(3)KLT 620]**.

3. Heard the learned Counsel for the petitioner and the learned Counsel for the third respondent. They drew my attention to R3(C) and decision laid down by this court in the **Kerala Homoeo Medical Graduates**

Association's case (*supra*).

4. Having gone through Ext.R3(C), it is seen that certain persons are allowed to practice as parambarya Vaidhyan and they are exempted from taking registration under the Act. So the point to be considered is whether the third respondent would come under the purview of Ext.R3(C) of the Act. I am of the view that, it is the factual issue which requires to be considered by the competent statutory authority after hearing both parties.

5. In the above view, the second respondent is directed to consider Ext.P2 and pass order after affording an opportunity of being heard to both parties to substantiate the rival contentions, within a period of three months from today.

This writ petition is disposed of accordingly.

Sd/-
K.HARILAL
JUDGE

VS