

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 2203 of 2015 (A)

PETITIONER :

**E.VIJAYARAGHAVAN @ VIJAYAN, AGED 54 YEARS,
S/O DR. E A SHIVASHANKARAN (LATE), EDAVALAKKATTU,
CHAMBAYIL HOUSE, "KRISHNAPRABHA", ARAKKINAR P.O.,
KOZHIKODE.**

**BY ADVS.SRI.A.RANJITH NARAYANAN
SMT.A.SIMI
SRI.S.K.SAJU**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
THIRUVANANTHAPURAM-695 001**
- 2. THE REGISTRAR, MEDICAL COUNCIL,
R.C ROAD, THIRUVANANTHAPURAM- 695 001**
- 3. THE SECRETARY, CENTRAL COUNCIL OF HOMEOPATHY,
10, COMMUNITY CENTRE,BASANTLOK,
VASANT VIHAR, NEW DELHI-55**
- 4. DIRECTOR OF HOMEOPATHY, DIRECTORATE OF HOMEOPATHY,
EAST FORT, THIRUVANANTHAPURAM-695 023**
- 5. THE REGISTRAR, TRAVANCORE COCHIN MEDICAL COUNCIL,
RED CROSS ROAD, NEAR PALAYAM AIRPORT ROAD, KUNNUKUZHI
THIRUVAANTHAPURAM-695 023**
- 6. THE SUB INSPECTOR OF POLICE,
BEYPORE POLICE STATION, BEYPORE, KOZHIKODE-673 015**

**R1 & R2,R4 & R6 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R5 BY ADV. SRI.N.RAGHURAJ, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE MEMBERSHIP CERTIFICATE BEARING REGISTRATION NO.430/82 DATED 15.5.1983 ISSUED BY THE DIRECTOR, INDIAN HOMEIO MISSION IN HOMEOPATHY AND BIOCHEMISTRY.
- EXT.P2: TRUE COPY OF THE CERTIFICATE DATED 28.4.1984 ISSUED BY THE PRINCIPAL, PREMIER HOMEOPATHIC MEDICAL COLLEGE, CHANDIGARH
- EXT.P3: TRUE COPY OF THE REPORT DATED 24/02/1998 ISSUED BY THE VILLAGE OFFICER, FEROKE
- EXT.P4: TRUE COPY OF THE CERTIFICATE DATED 31.1.2012 ISSUED BY THE ADDITIONAL TAHSILDAR, TALUK OFFICE, KOZHIKODE
- EXT.P5: TRUE COPY OF THE MEMBERSHIP CERTIFICATE DATED 29.12.1984 ISSUED BY THE PRESIDENT, KERALA STATE HOMEIO MEDICAL ASSOCIATION
- EXT.P6: TRUE COPY OF THE ORDER DATED 24.1.1997 IN C.M.P.NO. 2519/1997 IN OP NO.1419/1997
- EXT.P7: TRUE COPY OF THE JUDGMENT DATED 1.10.1999 IN OP NO. 1419/1997 PASSED BY THIS HON'BLE COURT
- EXT.P8: TRUE COPY OF THE G.O. DATED 21.12.2011
- EXT.P9: TRUE COPY OF THE REQUEST LETTER DATED 3.2.2012 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT
- EXT.P10: TRUE COPY OF THE JUDGMENT DATED 17.9.2014 IN WPC NO. 23752/2014
- EXT.P11: TRUE COPY OF THE ORDER AND JUDGMENT DATED 4.11.2014 IN W.P.C. NO.28835/2014 PASSED BY THIS HON'BLE COURT
- EXT.P12: TRUE COPY OF THE REPRESENTATION DATED 16.11.2014
- EXT.P13: TRUE COPY OF THE HEARING NOTICE DATED 18.12.2014
- EXT.P14: TRUE COPY OF THE ORDER NO.C.11546/2014/M.C./WPC NO.28835/2014 DATED 22.12.2014
- EXT.P15: TRUE COPY OF THE APPLICATION/REPRESENTATION DATED 22/01/2015 ADDRESSED TO THE 1ST RESPONDENT.
- EXT.P16: POSTAL RECEIPT

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

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P.A.TO.JUDGE

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 2203 of 2015

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Dated, this the 29th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- "1. To issue a writ of certiorari or any other appropriate writ, order or direction, calling for the original of Ext. P14 order No. C.11546/2014/M.C./W.P. (C) No. 28835/14 dated 22.12.2014 passed by the 5th respondent, peruse the same, hear the petitioner and set aside the same as illegal, unjustifiable and as being in contravention of Ext. P8 G.O. And Sections 20,26,36, 37 and 38 of the Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953).
2. To issue writ of mandamus or any other appropriate writ, order or direction directing the respondents 1 to 5 jointly or severally to include the petitioners name in Part B of the State of Register of Homeopathy for the State of Kerala or in the alternative direct the said respondents to exempt the petitioner from compulsory registration under the provisions of the TC Act 1953.
3. To direct the respondents to permit the petitioner

to practice Homeopathy in the Malabar area of the State of Kerala.

4. To direct the respondents, more especially respondent No. 6 or other police officials not to initiate coercive steps against the petitioner on his being a practitioner as defined under Act IX of 1953.

5. To grant such other and further relief/reliefs as the petitioner may pray for from time to time and which this Hon'ble Court deems fit and proper to grant in the interests of justice by effectively moulding the relief/reliefs or otherwise.

2. Heard the learned Government Pleader and the learned standing counsel appearing for the 5th respondent.

3. The petitioner herein had earlier approached the respondent council (5th respondent) for granting exemption under Section 38 of the Travancore Cochin Medical Council Act so as to enable the petitioner to practise homeopathic medicine. By virtue of enabling provisions and various orders/circulars issued by the Government in this regard, the application was rejected as per Ext.P14 issued by the 5th respondent, holding that the power to grant exemption under Section 38 stands exclusively vested with

the first respondent. It is in the said circumstances that the petitioner has filed Ext.P15 before the 1st respondent (produced along with I.A. No. 1333 of 2015).

4. After hearing both the sides, the writ petition is disposed of, directing the first respondent to consider and pass appropriate orders on Ext. P15, after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within three months from the date of receipt of a copy this judgment. 'Status quo' shall be maintained till such time.

Petitioner shall produce a copy of this judgment along with a copy of the writ petition, including the I.A, before the first respondent for further steps.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

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