

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.15718 of 2015 and
M.P.No.1 of 2015

Ayush Medical Welfare Association (AMA)
Rep. By its President,
Dr.K.M.Senthamizhselvan,
No.75, Vaidyar Street,
Thiruvathipuram,
Cheyyaru Taluk,
Thiruvannamalai District.

.. Petitioner

Versus

1.The Secretary to Government
Department of Ayush,
Government of India,
Ministry of Health and Family Welfare,
IRCS Building, No.1,
Red Cross Buildings,
New Delhi - 110 001.

2.The Secretary,
Central Council For Indian Medicine,
No.61-65, Institutional Area,
Janakpuri, New Delhi - 110 058.

3.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.

4.The Ex-Officio President,
Tamil Nadu Board of Indian Medicine,
Arumbakkam,
Chennai - 600 106.

5.The Returning Officer,
C.C.I.M Election,
C/o Tamil Nadu Board of Indian Medicine,
Arumbakkam,
Chennai - 106.

6.Dr.R.Veeracholan
7.Dr.Shaik Shahul Hameed
8.Dr.C.Mushtaq Ahamed

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorified Mandamus calling for the entire records connected with the proceedings of the 5th respondent in Lr.No.170/TNBIM/2014 dated 23.05.2015 and quash the same and consequently, direct the 5th respondent to reject the nominations of the respondents 6 to 8 in the Central Council of Indian Medicine Election 2015.

For Petitioner : Mr.E.Sathyaraj

For RR4 : Mr.V.Subbiah, Spl.G.P.,

For RR3 & 5 : Mr.P.Sanjay Gandhi, Spl.G.P.,

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims to be a Doctor practicing Ayurveda and also the President of Ayush Medical Welfare Association (AMA). The petitioner would state that the fifth respondent has issued a notification dated 26.02.2015 for election of one member in each Ayurveda, Siddha and Unani in the State of Tamil Nadu. The respondents 6 to 8 have also filed their nominations and thereafter, all the nomination papers were being scrutinized by the fifth respondent. Originally, the eligible candidates list was scheduled to be published on 18.05.2015. Without valid reason, the list was published by the fifth respondent early on 14.05.2015. It is the specific case of the petitioner that the respondents 6 to 8 are not qualified to contest the election at all as they are Government employees and without obtaining appropriate permission, they ought not to have filed the nominations. The petitioner also submitted a detailed representation pointing out some irregularities. Since, no response is forthcoming, the petitioner came forward to file this writ petition.

3.When the matter was listed on 04.06.2015, Mr.P.Sanjay Gandhi, learned Special Government Pleader accepted notice on behalf of the fifth respondent and he sought for time to get instructions. Therefore, the matter was ordered to be listed on 05.06.2015. On 05.06.2015, the learned Special Government Pleader would submit that election process has already been commenced on 25.05.2015 and the electoral list has already been finalised and voters list has also been sent to the concerned persons and it is a month long affair and it is going to end on 26.06.2015. The learned Special Government Pleader sought for time to file an affidavit in this regard.

4.Today, when the case is called, a counter affidavit has been filed on behalf of the respondents 3 and 5 and it is relevant to extract paragraph No.14:-

Council of Indian Medicine Election has been notified in the Tamil Nadu Government Gazettee, dated 04.03.2015 vide No.VI(1)/69/2015 by the Returning Officer. As per the above notification the election was commenced on 25.05.2015 and to be completed on 24.06.2015 and the Returning Officer dispatched the voting papers through Registered Post to the concerned voter/electoral members. The last dates for receipt of voting papers are till 3.00 pm on 24.06.2015 (Wednesday) scrutiny and counting of votes on 25.06.2015 (Thursday). As on date (05.06.2015) approximately 80 votes were received from Ayurveda Practitioner votes. Therefore, the elections commenced as early on 25.05.2015 and nearly to be ended on 24.06.2015. Also the (finalized) list of votes have been dispatched to the petitioners counsel on today i.e., on 05.06.2015 at the earlier occasion, the same was handed over to the petitioner. The finalized voters list is also available in the Office of the Tamil Nadu Board of Indian Medicine. Every voter's can visit and verify in the office of the Tamil Nadu Board of Indian Medicine."

5.It is a well settled position of law that, if once election process is commenced, this Court cannot interfere in the election process. The remedy available for the petitioner is to challenge the legality of the election which commenced on 25.05.2015. Therefore, the writ petition is dismissed however, the petitioner is at liberty to work out his further remedy challenging the legality or otherwise of the results of the election in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Secretary to Government
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Government of India,
Ministry of Health and Family Welfare,
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New Delhi - 110 001.

2.The Secretary,
Central Council For Indian Medicine,
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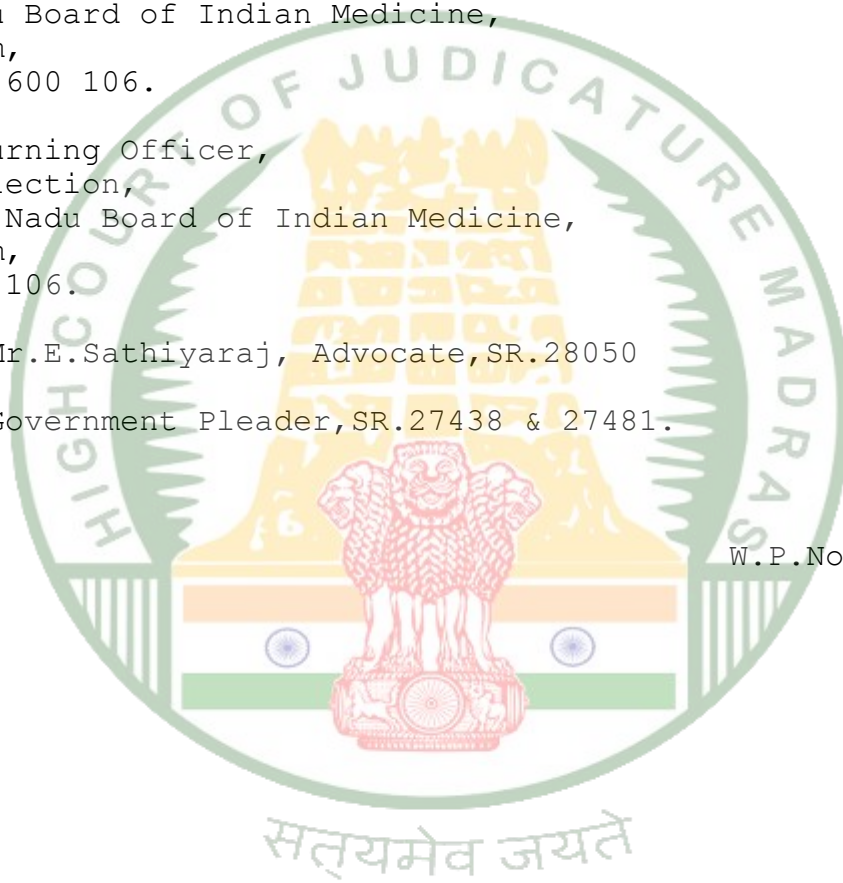
5.The Returning Officer,
C.C.I.M Election,
C/o Tamil Nadu Board of Indian Medicine,
Arumbakkam,
Chennai - 106.

+1 cc to Mr.E.Sathiyaraj, Advocate,SR.28050

+2 cc to Government Pleader,SR.27438 & 27481.

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