

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.04.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.16556 of 2014

and

M.P.No.1 of 2014

TAMIL NADU NURSES AND MIDWIVES COUNCIL
REP BY ITS REGISTRAR
MRS.ANIL GRACE KALAIMATHI
140 SANTHOME HIGH ROAD
CHENNAI 4

[PETITIONER]

Vs

1 THE SECRETARY
BHARATH SEVAK SAMAJ BSS PROGRAMME OFFICE
NO.148 BHARATHI NAGAR 1ST MAIN ROAD
TAMBARAM WEST CHENNAI 63

2 THE SECRETARY
BHARATH SEVAK SAMAJ CENTRAL PROGRAMME OFFICE
SABHAVANA BHAVAN KOWDIAR POST
TRIVANDRUM KERALA STATE

3 THE UNION OF INDIA
REP BY ITS SECRETARY
MINISTRY OF HUMAN RESOURCES DEVELOPMENT
SOUTH BLOCK NEW DELHI

4 THE STATE OF TAMILNADU
REP BY ITS SECRETARY TO GOVERNMENT
HEALTH AND FAMILY WELFARE DEPARTMENT
FORT ST. GEORGE CHENNAI 9

[RESPONDENTS]

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 3 and 4 to permanently ban the above courses being conducted by the respondents 1 and 2 within the state of Tamilnadu based on the representation of the petitioner dated 21.05.2012 in Ref.No.17/NC/12 and grant any other relief.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.R.Vijayakumar, AGP (R4)
NA for R1 & 2

ORDER

Heard Mr.A.R.Nixon, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader for the 4th respondent and with their consent, the main writ petition itself is taken up for final disposal.

2. The petitioner is the Tamil Nadu Nurses and Midwives Council, represented by its Registrar. The petitioner seeks for a direction upon the Central Government and the Tamil Nadu State Government to forthwith ban the courses being conducted by the respondents 1 and 2.

3. According to the petitioner, the courses offered and conducted by the respondents 1 and 2 and several other similarly placed Institutions are clearly contrary to the provisions of the Tamil Nadu Nurses and Midwives Councils Act, 1926 as amended by Act 26 of 1960. The learned counsel for the petitioner referred to Section 12(A)(1) & (2) of the said Act, which prohibits unauthorised conferment of degree, diploma, licence etc. According to the petitioner's counsel, the State Government and the Central Government are silent and mute spectators to the several complaints lodged by the council to take action against the unauthorised Institutions offering courses and copies of the pamphlets issued by those institutions have been filed in the typed set of papers and it is demonstrated before this Court that one such institution claims itself to be a Government Institution (Arasu Institution) and the logo depicts the logo of the Tamil Nadu State Government.

4. Further, the learned counsel for the petitioner has referred to the decision of the High Court of Karnataka in W.P.No.18036 of

2009 filed by the Karnataka State Nursing Council against respondents 1 and 2, wherein a prayer was made to desist the 1st respondent from conducting nursing training without any authority of law and initiate legal action against them. The High Court of Karnataka, after elaborately considering the issue and taking note of the statutory provisions, more particularly Section 18 of the Act, passed an order on 03.12.2009, recording the submission of the 1st respondent stating that they do not have any nursing training centre in the State of Karnataka and holding that the respondents 1 and 2 shall not impart nursing training to any person without the requisite permission/licence from State Nursing Council and Indian Nursing Council within State of Karnataka and if the respondents 1 and 2 contravenes that order, they are liable to be prosecuted under Sections 23 and 18 of the Karnataka Nurses, Midwives and Health Visitors Act, 1961.

5. The respondents 1 and 2 before this Court are the respondents 1 and 2 before the Karnataka High Court. Therefore, the learned counsel for the petitioner submitted that they should be prevented from conducting any courses in the State of Tamil Nadu and they should be prosecuted.

6. However, before approaching this Court, the petitioner council has not approached the Government for necessary action in this regard nor exercised their statutory power. Be that as it may, the compliant is that the Government is a mute spectator to all these illegal activities and has not initiated any action.

7. Taking note of the above facts and also the order passed by the Karnataka High Court against the respondents 1 and 2, the 4th respondent is bound to take appropriate action against such institutions which do not have approval for conducting nursing or midwives courses from the petitioner's council. In this regard, the petitioner is directed to submit a representation to the 4th respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such representation being received, the 4th respondent shall take note of the representation and take appropriate legal action forthwith to prevent such institutions which do not have proper approval from the competent authority including the petitioner and also sensitize the public in this regard so that the innocent students should not be put to peril. The Government, the fourth respondent shall take appropriate action in this regard within a period of four weeks from the date of such representation being made.

The Writ Petition is disposed of accordingly. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

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HEALTH AND FAMILY WELFARE DEPARTMENT
FORT ST. GEORGE CHENNAI 9

1CC to Mr.A.R.Nixon, Advocate SR 20475

1CC to Government Pleader SR 20418

ksj [CO]
PSI 24.04.2015

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