

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24/11/2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.37398 of 2015

and

M.P.No.1 of 2015

Dr.A.M.Vadivelu

...Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu  
Department of Health & Family Welfare  
Fort St. George  
Chennai 600 009.

2. The Director General of Police  
Kamarajar Road  
Mylapore  
Chennai 600 004.

3. The Chairman  
Tamil Nadu Sidha Medical Council  
Arumbakkam  
Chennai 600 029.

4. The Drug Controller  
Tiruvallur  
Tiruvallur District.

5. The District Collector  
O/o. The District Collector  
Tiruvallur District  
Tiruvallur.

...Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of mandamus forbearing the respondents and its men or subordinates from interfering with the practice of the Siddha system of medicine by the petitioner by initiating any penal action against the petitioner.

For Petitioner ... Mr.S.Parthasarathy

For Respondent ... Mr.R.A.S.Senthilvel  
Additional Government Pleader

O R D E R

With the consent of the learned counsel for the parties, this writ petition is taken up for final disposal.

2. Heard Mr.S.Parthasarathy, learned counsel for the petitioner, Mr.R.A.S.Senthilvel, learned Additional Government Pleader for the respondents.

3. This writ petition has been filed praying to forbear the respondents and its men or subordinates from interfering with the practice of the Siddha system of medicine by the petitioner by initiating any penal action against the petitioner.

4. In the affidavit filed in support of this writ petition, the petitioner narrated about certain instances, where the members of the petitioner association were harassed, in spite of the fact that they are registered medical practitioners. Therefore, it is prayed that appropriate direction should be granted and the second respondent should be directed not to harass the individual members of the petitioner association.

5. The learned Special Government Pleader appearing for the respondents has submitted that at no point of time harassment is meted out by the members of the petitioner association, but whenever complaints have been received, each case is dealt with separately and if the cognizable offence has been made out, the First Information Report is registered and thereafter, the matter has been enquired into in accordance with law. Therefore, it is submitted that no blanket direction could be granted, as sought for, in this writ petition.

6. After hearing the learned counsel for the parties and perusing the materials placed on record, it has to be pointed out that similar and identical cases were filed before the Madurai Bench of this Court in the cases of Tamil Nadu Siddha Medical Graduates' Association V. Indian Medical Association reported in 2011 (2) CTC 203 and in the said batch of cases, the petitioners, who came before the Court also included the Tamil Nadu Siddha Medical Graduates Association and they sought for a direction to forbear the respondents therein from interfering with the professional practice of the members of the petitioner association, who are practising their profession as per the Regulations passed by the Central Government. This Court, after elaborately hearing the parties and taking into consideration various decisions of the Hon'ble Supreme Court, in particular, the decisions in the cases of Dr. Mukhtier Chand V. State of Punjab, 1998(7) SCC 579, Poonam Verma V. Ashwin Patel, 1996 (4) SCC 332, Tamil Nadu Siddha Medical Graduates' Association V. Letika Saran, I.P.S., The

Director General of Police (Law and Order), 2010(4) CTC 798, Rajasthan Pradesh V.S.Sardarshahar V. Union of India, 2010 (6) MLJ 82 (SC) and Samira Kohli V. Dr. Prabha Manchanda, 2008 (1) CTC 392 (SC), disposed of the writ petitions by issuing following directions :

"47. In the light of the above, if it is seen the Supreme Court is of the opinion that medical professionals must be saved from unjust complaints of negligence or malpraxis and safeguards should be made. No blanket permission can be issued to the police to arrest or to prosecute the so-called quacks identified by the respondent Indian Medical Association. If the IMA as a guild association of Allopathic medical practitioners are aggrieved by any misconduct committed by other medical professionals governed by other systems of medicines, they can make complaints to their professional bodies under which those professionals are registered as they have valid licence and can find remedies. It is only in case where they are able to establish that there persons masquerading as Doctors, then the question of pressing into service anti quackery act will come into play. It will enable them to take that person to be prosecuted by legal methods."

7. The learned Special Government Pleader appearing for the respondents submitted that this Court, in the case of Thiruvannamalai District Welfare Indian Medicine and Homeopathic Practitioners Welfare Association (Formerly known as Private Medical practitioners Welfare Association) rep. By its President Dr. G. Pandurangan @ Parthiban V. The State of Tamil Nadu, rep. By the Commissioner and Secretary to Government, Health and Family Welfare Department, Fort St. George, Chennai - 600 009, in W.P.No.2722 of 2010 dated 30.03.2010, after carefully considering the petition filed by the association, wherein, they sought for a writ of Mandamus to forbear the respondent from enforcing the penal provisions of the Indian Medical Council Act, 1956 and the Drugs and Cosmetics Act, 1940, against the members of the petitioner association, dismissed the writ petition.

8. In the light of the above facts, this Court is of the view that no further direction is required to be given in the instant case except reiterating the observation made by this Court in paragraph 47 of the decision reported in the case of Tamil Nadu Siddha Medical Graduates' Association V.

Indian Medical Association, referred supra.

9. Accordingly, this writ petition stands disposed of in terms of the observation made by this Court in the above referred judgements in paragraph 47. All the other reliefs, sought for in this writ petition, stand rejected. No costs. Consequently, connected miscellaneous petition is closed.  
mvs.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government of Tamil Nadu  
Department of Health & Family Welfare  
Fort St. George, Chennai 600 009.
  2. The Director General of Police  
Kamarajar Road, Mylapore, Chennai 600 004.
  3. The Chairman  
Tamil Nadu Sidha Medical Council  
Arumbakkam, Chennai 600 029.
  4. The Drug Controller, Tiruvallur,  
Tiruvallur District.
  5. The District Collector,  
O/o. The District Collector  
Tiruvallur District, Tiruvallur.
- + 1 cc to Mr.S.Parthasarathy, Advocate Sr 63852.
- + 1 cc to The Govt.Pleader, Sr 63738.

SV/CO  
KR/15/12

W.P.No.37398 of 2015