

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17098 of 2005

ORDER:

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No representation on behalf of the petitioner either in the morning session or in the afternoon session. Heard the learned Government Pleader for Medical and Health and perused the record.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in objecting the petitioner as a registered medical practitioner, as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents not to interfere with the regular practice of the medicine and declare the petitioner as registered medical practitioner under Rule 2 (ee) of the Drugs and Cosmetics Rules, 1945.

The averments in the affidavit filed in support of the writ petition would show that the petitioner is a practicing doctor and a degree holder in BAMS (Bachelor of Ayurvedic Medicine and Surgery), obtained from University of Health Sciences, Andhra Pradesh. He did his internship in Modern medicine in General Medicine, General Surgery, Pediatrics, Gynecology, Obstetrics and family planning etc. It is stated that the petitioner is also having registration with Andhra Board for Ayurveda. While things stood thus, the Drug Inspectors of the second respondent visited the clinic of the petitioner and informed him that he cannot practice any medicine falling under the definition of modern medicines. Challenging the said action the present writ petition came to be filed.

Relying upon the interim order passed by this Court in W.P.Nos.26750 of 2001 and 15295 of 2004, this Court granted interim order in this writ petition. When the matter is taken up for hearing, the counsel for the respondents brought to the notice of the Court that the final orders are passed in those writ petitions.

A perusal of the same would show that W.P.No.26750 of 2001 was dismissed as infructuous in view of the representation made by the learned

counsel for the petitioner therein. Insofar as W.P.No.15295 of 2004 is concerned, a learned Single Judge of this Court after referring the judgments of the Apex Court in ***Dr.A.K.Sabhpathy v. State of Kerala, Poonam Verma v. Ashwin Patel*** and ***Dr.Mukhtiar Chand v. The State of Punjab*** dismissed the said writ petition on the ground that a harmonious reading of Section 15 of 1956 Act and Section 17 of 1970 Act leads to the conclusion that there is no scope for a person enrolled on the State Register of Indian medicine or Central Register of Indian Medicine to practice modern scientific medicine in any of its branches unless that person is also enrolled on a State Medical Register within the meaning of 1956 Act.

In view the judgments referred to above and as there is no representation on behalf of the petitioner, the writ petition is liable to be dismissed on both the counts.

Accordingly, the writ petition is dismissed. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

01.10.2015

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