

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.Nos.28794 to 28796 of 2016

And

W.M.P.Nos.24835 to 24837 of 2016

K.S.Vajid Basha ... Petitioner in W.P.No.28794/2016
N.Nithish Kumar Roy ... Petitioner in W.P.No.28795/2016
R.Sivasami Velumani ... Petitioner in W.P.No.28796/2016

Vs.

- 1 The State of Tamil Nadu
Rep by its Secretary to
Government,
Home Department,
Fort St. George,
Chennai - 600 009.
- 2 The State of Tamil Nadu
Rep by its Commissioner
and Secretary to Government
Health and Family Welfare
Department, Fort St. George,
Chennai - 600 009.
- 3 The Director General of Police
Kamarajar Road,
Mylapore,
Chennai - 600 004.
- 4 The Registrar
Tamil Nadu Board of Indian
Medicine,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam,
Chennai - 600 106. ... Respondents 1to4 in all W.Ps.

The Inspector of Police
Town Police Station,
Krishnagiri,
Tamilnadu - 635 001....5th Respondent in W.P.No.28794/2016

The Inspector of Police
Kacherimedu Police Station,
Gobichettipalayam,
Erode District.
Pincode - 638 476. ...5th Respondent in W.P.No.28795/2016

The Inspector of Police
R8, Vadapalani Police Station,
Vadapalani,
Chennai - 600 026. ...5th Respondent in W.P.No.28796/2016

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue Writ of Mandamus forbearing the Director General of Police, Kamarajar Road, Mylapore, Chennai - 600 004., namely the 3rd respondent herein from initiating any police action by labeling the petitioner as unqualified as he is a Registered Indian Medical Practitioner and thus ensure the safety of his profession in the field of Indian System of Medicine in Siddha, (WP.No.28794/16) Ayurvedha now run at Pariyur Road, Pirivu Gobichettipalayam, Erode District, Tamil Nadu - 638 476 (WP.No.28795/16) and Ayurveda run in the name and style of Thirupathi Puthur Kattu, Nudavaidya Salai, No.1, Housing Board Complex, Ottagapalayam, Vadapalani, Chennai - 600 026 (WP.No.28796/15) respectively.

For Petitioners : Mr.D.Ashok Kumar
For Respondents : Mr.S.V.Durai Solaimalai
for R1, R2, R3 and R5
Additional Government Pleader

C O M M O N O R D E R

By consent, the writ petitions are taken up for final disposal.

2.The petitioner in W.P.No.28794 of 2016 would state that he has been issued with Medical Registration Certificate bearing Certificate No.BA 22678 by the Tamil Nadu Board of Indian Medicine and he is allowed to practice Ayurvedha System of Medicine and it is valid till date.

3.The petitioner in W.P.No.28795 of 2016 would state that he has been issued with Medical Registration Certificate bearing Certificate No.BA20034 by the Tamil Nadu Board of Indian Medicine and he is allowed to practice Ayurvedha System of Medicine.

4.The petitioner in W.P.No.28796 of 2016 would state that he has been issued with Medical Registration Certificate bearing Certificate No.BA 22753 by the Tamil Nadu Board of Indian Medicine and he is allowed to practice Ayurvedha System of Medicine.

5.The learned counsel appearing for the petitioners would submit that by virtue of the above stated Certificates given to the petitioners, they are entitled to practice Ayurvedha System of Medicine and under the guise of practising the said System of Medicine, they have never indulged in prescribing or practising Allopathy System of Medicine and since they are not qualified for MBBS, they are branded as "quacks" Doctors and the fifth respondent under the guise of enquiry, are repeatedly harassing them and interfering with their lawful professional activities and therefore, they came forward to file these writ petitions.

6.The learned counsel appearing for the petitioners has also drawn the attention of this Court to the order dated 08.11.2011 made in W.P.No.20191 of 2011 (Dr.N.Sankaramurthy Vs. The State of Tamil Nadu rep. by its Secretary to Government, Home Department, Fort St.George, Chennai 600 009 and others), the interim order dated 21.02.2014 made in W.P.No.4961 of 2014 and M.P.No.1 of 2014 and the order dated 26.04.2016 made in W.P.Nos.14602 and 14603 of 2016 (A.Thandavamoorthy and another Vs. The State of Tamil Nadu rep. by its Secretary to Government, Home Department, Fort St.George, Chennai 600 009 and others) and prays for appropriate orders.

7.Per contra, Mr.S.V.Durai Solaimalai, learned Additional Government Pleader who accepts notice on behalf of the respondents 1, 2, 3 and 5 would submit that the petitioners under the guise of practising Ayurvedha System of Medicine, cannot prescribe or administer injections, which is unique to Allopathy System of Medicine and since some complaints have emanated against them, the fifth respondent, in discharge of his lawful duties, is conducting enquiry, strictly, in accordance with law.

8.This Court has carefully considered the rival submissions and also perused the materials placed before it.

9.As per the typed set of documents, the petitioners are issued with Medical Registration Certificates to practice Ayurvedha System of Medicine and in the affidavit filed in support of these writ petitions, they have specifically stated that they are practising only the said System of Medicine and not any other Form or System of Medicine and the said undertaking is placed on record.

10.Under Article 19(1)(g) of the Constitution of India, a citizen of India is entitled to practise any profession, or to carry on any occupation, trade or business subject to reasonable restrictions.

11.In the light of the undertaking given by the petitioners that they are practising only Ayurvedha System of Medicine, the

fifth respondent under the guise of enquiry, cannot disturb or interfere with their lawful profession. However, if the fifth respondent comes across any tenable material as to any violation of law/ infraction on the part of the petitioners, the said Official is always at liberty to proceed against the petitioners, strictly, in accordance with law.

12.The writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

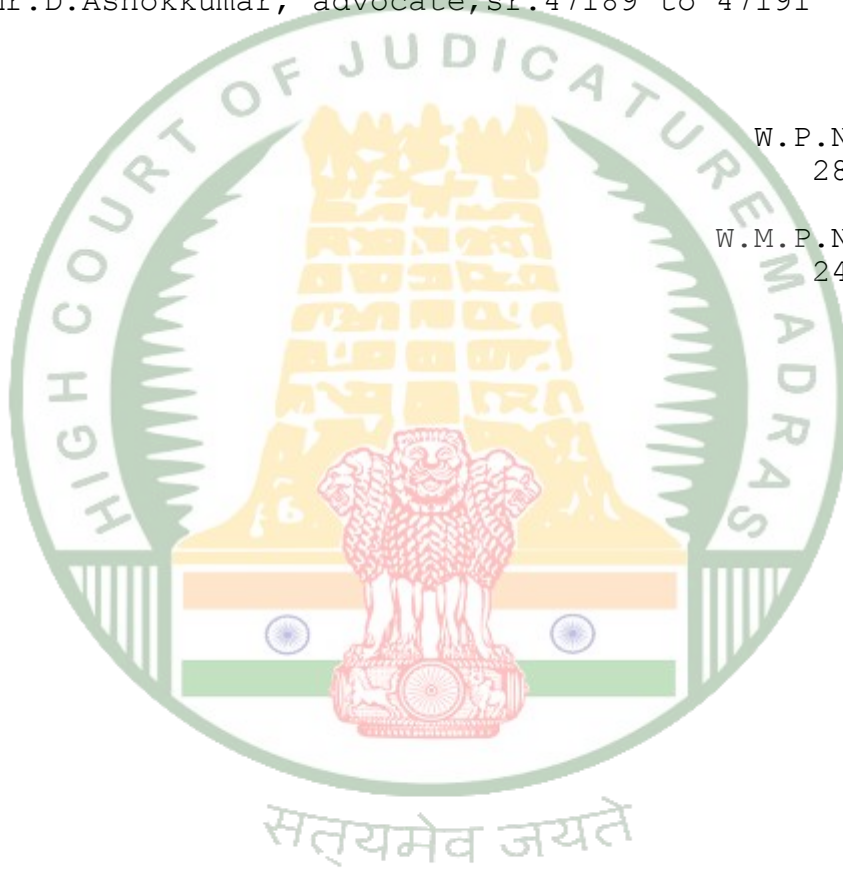
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R8, Vadapalani Police Station,
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Chennai - 600 026.

+3 cc to Mr.D.Ashokkumar, advocate,sr.47189 to 47191

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krd 26/8

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