

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Cr1.O.P.No.3647 of 2016

K.Asokan

.. Petitioner

Vs.

The State Rep. by  
The Inspector of Police,  
Nallipalayam Police Station,  
Namakkal District.

... Respondent

Prayer:-Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the respondent or his men or agents "not to harass" the petitioner without due process of law.

For Petitioner :Mr.D.P.R.Prabhu

For Respondent :Mr.C.Emalias  
Additional Public Prosecutor

O R D E R

This petition is filed for issuing a direction to the respondent not to harass the petitioner under the guise of enquiry.

2.Learned counsel for the petitioner would submit that the respondent has called the petitioner for enquiry and harassed him without any reasons, stating that he violated the rules under the memorandum issued by the Central Government, the Health and Welfare Department. Hence, the petitioner has come forward with this petition for the above stated relief.

3.Resisting the same, the learned Additional Public Prosecutor would submit that the Central Government has issued a memorandum in the year 1979 and subsequently, on 11.06.1982, the Central Government has sent another letter, wherein, in para-8, it was specifically mentioned that "the State Governments/Union Territories are requested to take action on the most immediate basis, to put an end to the problem of unqualified medical practitioners as well as to ensure that there is no fresh addition whatsoever of unqualified persons to the stream of the petitioner."

4.The learned Additional Public Prosecutor has drawn the attention of this Court through the order dated 15.06.1998,

made in W.P.No.7402 of 1998 etc., batch. In para-8 of the said order, it was held that as per clause (3), "they shall not use the word "Dr.", and as per clause (5), "they shall inform the Collector of the District, the place in which they are practising or intend to practise with full address". Since the petitioner has been violated the rules, he was called for enquiry. It is further submitted that in respect of one Annadurai is concerned, a case in Crime No.1164 of 2014, dated 19.09.2014 has been registered and the respondent has not harassed the petitioner under the guise of enquiry and the petitioner may be directed to follow the guidelines issued by this Court in the above said writ petition. Hence, he prayed for dismissal of the petitions.

5.This Court has considered the rival submissions made on both sides and perused the materials available on record.

6.According to the petitioner, he is a registered member of Private Medical Practitioner's Association of India and practicing modern allopathic system of medicine for more than ten years.

7.Admittedly, this Court, by an order dated 15.06.1998, held that the members of petitioner's Association and the petitioners therein are allowed to practice in modern medicine and on the field in which they have been rendering services to the public on their complying with certain conditions. One of the conditions is that they shall not use the word "Dr.". So it is appropriate to incorporate clauses (3) and (5) of the above said order, which read as follows:

"(3)They shall not use the word "Dr.", or similar words used in local language before or after their names, instead, after their names, they shall add the words "Unqualified Medical Practitioner" or its translated version in the local language. The said direction is absolutely necessary, since the illiterate public may not confuse them as "qualified doctors" and the public should know that they are of "distinct category". Name-board with the above details will be placed in a conspicuous place of the building in which they intend to practise or are practising.

(5) They shall inform the Collector of the District the place in which they are practising or intend to practise with full address and the field in which they have experience. They shall not practise in any other place except with intimation to the District Collector, which shall be sent by registered post acknowledgment due."

8.Considering the afore stated facts and circumstances of the case and also the fact that except one Annadurai, no case has been registered against the petitioner and others, it is appropriate to consider the argument advanced by the learned Additional Public Prosecutor that without following the guidelines issued by this Court, the petitioner is practising. So the petitioner is directed to follow the guidelines issued by this Court in W.P.No.7402 of 1998 etc., batch, dated 15.06.1998. If the petitioner violate any of the conditions, it is left open to the respondent police to take appropriate action in accordance with law, but the respondent police is directed to not to harass the petitioner under the guise of enquiry and they shall investigate into the matter in accordance with law and the mandates as found set out in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610. If really, the police want to interrogate, it is open for the police to issue summons to the petitioner. Thereupon, the petitioner shall appear before the police and submit himself for interrogation.

9.The Criminal Original Petition is disposed of with the above direction.

DP

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,  
Nallipalayam Police Station,  
Namakkal District.

2.The Public Prosecutor,  
High Court, Chennai.

+ 1 cc to Mr.D.P.R.Prabhu, Advocate Sr 15338

KR/11/3/16

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