

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.35881/2016 & WMP.No.30818/2016

Dr.N.Rangarajan .. Petitioner

Vs.

1.The Secretary
Union of India, Ministry of Health
and Family Welfare, Nirman Bhawan
New Delhi.

2.The Secretary
Government of Tamil Nadu
Health & Family Welfare,
Fort St George, Chennai 600 009.

3.Dr.N.K.Asathy
Secretary, NHEM of India,
New Delhi 110058. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of declaration declaring that the petitioner
is entitled to practice in Electropathy/Electro Homeopathy and CMS [ED]
as per the 1st respondent's letter dated 05.05.2010.

For Petitioner : Mr.N.G.R.Prasad, Counsel
for M/s.Row and Reddy

For R2 : Mr.Digvijaypandian, AGP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he had completed B.E.M.S [Bachelor of Electropathy Medicine and Surgery] course in Naturo Homeo Electro Medicos of India [NHEM of India], which is a registered Society under the Societies Registration Act and that he has been practicing Electropathy / Electro Homeopathy and he also did his MD [EH]. It is his further case that on 05.05.2010, the 1st respondent has issued a Circular/Notification in No.V.25011/276/2009-HR, stating that ***"there is no proposal to stop the petitioners therein from practicing in Electropathy / Electro Homeopathy as long as this is done within the provisions of the order No.R.14015/96-U and H[R][Pt] dated 26.11.2003"***. Hence, based on the above Circular/Notification, the petitioner seeks for declaration to practice Electropathy / Electro Homeopathy.

3 Mr.N.G.R.Prasad, learned Counsel appearing for the petitioner placed reliance on the following judgments of various High Courts of India as well as the judgment of the Hon'ble Apex Court:

[a] Delhi High Court - FAO No.205/92-Union of India Vs. NHEM of India dated 18.11.1998 ;

[b] High Court of Gujarat at Ahmedabad – LPA No.1314/2009 and batch *[B.K.Singh Derm and 10 others Vs. Surat Municipal Corporation and 4 others]* ;

[c] Hon'ble Apex Court judgment in SLP[C] No.23572/2009 dated 22.01.2015 *[GGS Medical Institute and Hospital of Elect. And another Vs. Union of India and others]*.

4 The learned Senior Counsel appearing for the petitioner would submit that the petitioner is fully qualified to practice Electropathy / Electro Homeopathy and CMS [ED] and relying on the replies received by the persons, similarly placed as that of the petitioner, through the Right to Information Act, 2005, wherein permission was granted to them to practice Electropathy / Electro Homeopathy and that there is no bar for them from practicing so, the petitioner preferred representations to the respondents on 26.03.2016 seeking permission to practice Electropathy / Electro Homeopathy and since the petitioner is yet to be favoured with any kind of response, he is before this Court by filing the present writ petition.

5 Heard the learned Senior Counsel appearing for the petitioner and Mr.Digvijaypandian, learned Additional Government Pleader who accepts notice on behalf of the 2nd respondent.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the case, directs the 1st respondent to consider and dispose of the representation of the petitioner dated 26.08.2016 after taking note of the Circular/Notification of the 1st respondent dated 05.05.2010 as well as the judgment of the Hon'ble Apex Court **in SLP[C] No.23572/2009** dated 22.01.2015 [*GGS Medical Institute and Hospital of Elect. And another Vs. Union of India and others*] and pass orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

07.10.2016

AP

To

- 1.The Secretary
Union of India, Ministry of Health
and Family Welfare, Nirman Bhawan
New Delhi.
- 2.The Secretary
Government of Tamil Nadu
Health & Family Welfare,
Fort St George, Chennai 600 009.
- 3.Dr.N.K.Aswathy
Secretary, NHEM of India,
New Delhi 110058.

B.RAJENDRAN, J.,
AP

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