

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

WP.No38227/2016 & WMP No.32778/2016

Dr.R.Hari Govindan

..Petitioner

...Vs...

1.The Secretary,
Union of India,
Ministru of Health & Family Welfare,
Nirman Bhawan, New Delhi.

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

3.NHEM of India,
rep.by its Secretary Dr.N.K.Aswathy,
New Delhi-110 058.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue appropriate Writs, orders or directions and in particular a writ in the nature of declaration, delcaring that the petitioner is entitled to practice Electropathy/Electro Homeopathy as per the 1st respondent's letter dt.05.05.2010 and other orders and issue consequential orders, award costs.

For Petitioner : Mr.N.G.R.Prasad
for M/s. row and Reddy

For R1 : Mr.K.Raju, CGSC

For R2 : Mr.P.Senthilvel, GA

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ORDER

Heard the learned counsel for the petitioner ; Mr.K.Raju, learned Central Government Standing Counsel, accepting notice for the 1st respondent and Mr.P.Senthilvel, learned Government Advocate, accepting notice on behalf of the 2nd respondent and with the consent on either side, 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 the year 2012 in Rajiv Gandhi Medical Institute of Electropathy and Hospital, Krishnagiri, affiliated to 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] in the year 2014. 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 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 11.10.2016 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 This Court considered the rival submissions.

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 11.10.2016 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.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary,
Union of India,
Ministru of Health & 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-110 058.

1 cc to Mr.K. Raja Advocate, Sr. 62344
1 cc to M/s. Row and Reddy, Advocate, Sr. 62634
1 cc to Government Pleader, Sr. 62845

WP.No38227/2016

LRS (CO)
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