

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 529 OF 2017

Ayurvedic Natural Health Centre Pvt. Ltd.,
Through its Managing Director,
Mr. Bruno Fernandes,
Major of age,
Branch Centre at Bouganvilla Hermitage,
Nachinola, Bardez Goa. ... Petitioner

Versus

1. State of Goa,
Through its Chief Secretary,
Porvorim Goa.
2. The District Magistrate of North Goa,
Collectorate Building,
Panaji Goa,
3. The Directorate of Health Services,
Through the Director,
Campal, Panaji Goa,
4. The Health Officer,
Primary Health Centre,
Aldona, Bardez Goa.
5. The Mamlatdar of Bardez,
Mapusa Goa. ... Respondents

Mr. Nigel Da Costa Frias, Advocate for the petitioner.

Mr. D. Lawande, Advocate General with Mr. S. Rebello, Addl.
Government Advocate for the respondents.

**Coram:- F. M. REIS &
PRITHVIRAJ K. CHAVAN, JJ.**

Date:- 13th June, 2017

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. Nigel Da Costa Frias, learned counsel appearing for the petitioner and Mr. D. Lawande, learned Advocate General appearing for the respondents.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned Addl. Government Advocate appearing for the respondents waives service.

4. The above petition inter alia takes exception to the order passed by the respondent no.2 dated 30.03.2017 directing the sealing of the establishment of the petitioner on the ground that SPA activities are being carried out without the requisite permissions from the statutory authorities.

5 Mr. Nigel Da Costa Frias, learned counsel appearing for the petitioner has submitted that all requisite permissions have been obtained but however in terms of the Goa Medical Practitioners Act, 2004, the petitioner has to be registered to run an Ayurvedic Clinic. It is further pointed out that an application for such permission is pending before the concerned authorities from 03.03.2017. The learned counsel further submits that the impugned order has been passed on an erroneous ground that the petitioner is running a SPA when according to him no such facilities are provided in the establishment of the petitioner.

6. On the other hand, Mr. Dattaprasad Lawande, learned Advocate General submits that the concerned authorities had carried out an inspection of the subject establishment and though they found initially that no SPA facilities were provided by the petitioner, nevertheless, on the subsequent occasion during the course of the inspection the concerned authorities found that the petitioner was providing SPA facilities which resulted in the impugned order being passed by the respondent no.2. The learned

Advocate General further submits that as the petitioner has not obtained the requisite permissions from the statutory authorities for providing SPA facilities in the subject establishment, the respondent no.2 was justified to pass the impugned order. The learned Advocate General further pointed out that as far as the application filed by the petitioner for registration under the Goa Medical Practitioners Act, 2004, such application shall be disposed of within three weeks from today in accordance with law.

7. In reply to the said contention, Mr. Nigel Da Costa Frias, learned counsel appearing for the petitioner submits that no SPA facilities are provided by the petitioner in the subject establishment and the petitioner has filed an undertaking to this Court that they will not provide any SPA facilities in the subject establishment and in case they intend to do so necessary permission shall be obtained in accordance with law.

8. We have considered the rival contentions and we have also gone through the records. On examining the contentions advanced by the learned counsel appearing for the parties, the impugned order passed by the respondent no.2 is essentially on the assumption that the petitioner was providing SPA facilities in the subject establishment. But however, looking into the undertaking filed by the Managing Director of the petitioner which is taken on record and marked 'X' for identification, we find that accepting the said undertaking filed by the Managing Director of the petitioner, the apprehension of the respondents that the petitioner may provide SPA facilities without due permission from the concerned authorities would not survive. Para 1 of the said affidavit records the undertaking which reads thus :

“The petitioner states that he has not been operating a massage spa or massage Parlour in premises bearing house no.326/2-LGF-A-001 situated at Bougainvilla, Hermitage Retirement Village, under a contract dated 15.09.2016 with Bougainvilla Hermitage Pvt. Ltd., and

undertakes not to do so in the future without obtaining the necessary licenses”.

9. As far as the Ayurvedic clinic is concerned, we find that as the application filed by the petitioner is pending since March, 2017, it would be appropriate for the concerned authorities to dispose of the said application as expeditiously as possible and in any event, within three weeks from today. But however, until such decision is taken, the petitioner shall not admit any new patient or individual for providing such Ayurvedic treatment.

10. In view of the above, we pass the following :

O R D E R

- (i) The impugned order dated 30.03.2017 is quashed and set aside.
- (ii) The undertaking of the petitioner marked 'X' for identification stands accepted.
- (iii) The respondent nos. 3 and 4 shall proceed to decide the said application filed by the

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petitioner within three weeks from today.

- (iv) Rule stands disposed of in the above terms.
- (v) The petition stands disposed of accordingly.

PRITHVIRAJ K. CHAVAN, J.

F. M. REIS, J.

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