

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25177 of 2017

and

W.M.P.Nos.26612 & 26613 of 2017

Dr.S.Saravanan

... Petitioner

Vs.

1. The Registrar,
Tamil Nadu Homeopathy Medical Council,
Arignar Anna Government Hospital Campus,
Arumbakkam,
Chennai - 600 106.
2. The Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 003.
3. Central Council of Homeopathy,
Janak Puri, New Delhi - 110 058.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the first respondent in his enquiry notice in Lr.No.156/TNHMC/2017 dated 06.07.2017 and the enquiry proceedings pursuant thereto and to quash the same as being illegal and unsustainable in law and being without jurisdiction, on account of being violative of Section 21 of the Tamil Nadu Homeopathy System of Medicine and Practitioners of Homeopathy Act, 1971.

For Petitioner : Mr.N.Kavitha Rameshwar

For R1 : Mr.K.Dhananjayan
Special Government Pleader

For R2 : Ms.C.N.G.Niraimathi

O R D E R

The notice for enquiry issued by the first respondent in his proceedings dated 06.07.2017 is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner states that the writ petitioner was appointed as a Professor in Tamil Nadu Government Homeopathy Medical College & Hospital, Madurai. Based on certain complaints an enquiry in relation to the registration of the writ petitioner with the Homeopathy Medical Council is proposed to be conducted. In this regard, the first respondent issued a notice in proceedings dated 06.07.2017, requesting the writ petitioner to appear before the Registrar on 19.07.2017, with all the original certificates regarding the Educational qualifications and his original registration certificates for the purpose of conducting enquiry. The writ petitioner also participated in the enquiry on 19.07.2017. However, the enquiry is in progress and yet to be completed.

3.Under these circumstances, the writ petitioner came to understand that the process of enquiry initiated by the Registrar is in violation of the provisions of the Tamil Nadu Homeopathy System of Medicine and Practitioners of Homeopathy Act, 1971 and accordingly moved this writ petition under Article 226 of the Constitution of India.

4.The learned counsel appearing for the writ petitioner brought to the notice of this Court that under Section 21 of the said Act provides Procedure for conducting inquiries and appeals and the Section is extracted here under:

"Any inquiry under section 15 or section 19 may be held by a committee consisting of three members of the council elected for the purpose by the council. The council or the committee, as the case may be, may, at its discretion, hold such inquiry in camera. When the inquiry is held by a committee, it shall make a report to the council which shall pass orders under section 15 or section 19 as the case may be."

Thus, it is clear that the procedure for conducting enquiry is contemplated under the Act.

5.Under these circumstances, the proposed procedure adopted by the first respondent is not in consonance with the procedures contemplated under the Act. Thus, this Court is of the opinion that the first respondent is bound to adopt the procedures

contemplated in the said Act and any violation will cause prejudice to the rights of the writ petitioner. This being the factum of the case, the impugned enquiry notice issued by the first respondent in proceedings dated 06.07.2017 is quashed and the respondents are granted liberty to proceed against the writ petitioner for the purpose of conducting a full fledged enquiry under the provisions of the said Act by providing opportunity to the writ petitioner and thereafter take a decision and pass final orders as per law.

6. Accordingly, the writ petition stands disposed of. However there is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
Tamil Nadu Homeopathy Medical Council,
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Chennai - 600 106.
2. The Tamil Nadu Public Service Commission,
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VOC Nagar, Park Town,
Chennai - 600 003.
3. Central Council of Homeopathy,
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+1cc to Mr.N.Kavitha Rameshwar, Advocate, S.R.No.68578
+1cc to the Government Pleader, S.R.No.69920

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MN(CO)
CS/13/10/17