



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P. (MD) No.21267 of 2016

Dr.Newton Kumar Mitra

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
St. George Fort,
Chennai - 600 009.

2.The Chairman,
Tamil Nadu Board of Indian Medicine,
Arumbakkam,
Chennai.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Joint Director,
Medical Rural Health Services and
Family Welfare Department,
Government Head Quarters Hospital,
Ramanathapuram.

5.The Tahsildar,
Paramakudi Taluk Office,
Paramakudi,
Ramanathapuram District.

6.The Inspector of Police,
Town Police Station,
Paramakudi,
Ramanathapuram District.

... Respondents

[R1 & R2 are deleted vide Court order
dated 07.11.2016, in W.P. (MD) No.21267/2016]

Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus, directing
the respondents 3 to 6 not to cause any disturbance to the



petitioner's medical practice by removing the lock and seal put up in the premises situated at Bagavatsingh Road, Sandaipettai, Paramakudi, Ramanathapuram District.

For Petitioner : Mr.N.Ananthapadmanabhan
For Respondents : Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus, directing the respondents 3 to 6 not to cause any disturbance to his medical practice by removing the lock and seal put up in the premises, situated at Bagavatsingh Road, Sandaipettai, Paramakudi, Ramanathapuram District.

2.The case of the petitioner is that he is a qualified Ayurvedic Doctor and that he was running an Ayurvedic Clinic in the premises at Bagavatsingh Road, Sandaipettai, Paramakudi, Ramanathapuram District and that Clinic has been illegally locked by the respondents 4 to 6. Therefore, the petitioner gave a representation, dated 03.10.2016 to the fourth respondent and thereafter, he filed the present Writ Petition with the above prayer.

3.Heard Mr.N.Ananthapadmanabhan, learned counsel for the petitioner and Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader appearing for the respondents. Mr.E.Muthu Manickam, Special Sub-Inspector of Police, Paramakudi Town Police Station, is present.

4.Mr.N.Ananthapadmanabhan, learned counsel appearing for the petitioner submitted that the petitioner is a qualified Ayurvedic Doctor and he was never practising Allopathy Medicine and that he has all along been practising Ayurvedic Medicine, despite which, his Clinic has been illegally closed by the respondents 4 to 6 and therefore, his fundamental right guaranteed under Article 19(1)(g) of the Constitution of India has been infringed and hence, this Court should issue a Writ of Mandamus as prayed for.

5.Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader refuted the contentions.

6.The Joint Director of Medical Rural Health Services and Family Welfare Department has filed a detailed counter affidavit denying the allegations.

7.This Court gave its anxious consideration to the rival submissions made on either side.



8.The factual matrix of the case from the records produced by the State, is as follows:

On the orders of the District Collector, the authorities started cracking down on quack Doctors. Accordingly, on 02.09.2016, a Team headed by the Assistant Joint Director of Medical Rural Health Services and Family Welfare Department, inspected the premises at Bagavatsingh Road, Sandaipettai, Paramakudi, Ramanathapuram District, where they found a Board "Roy Clinic". In that premises, they found one Subroto Kumar Roy dispensing medicines to patients. On enquiry, they found that the said Subroto Kumar Roy had passed only 12th Standard and that he did not have valid Medical Degree to practise Ayurvedic Medicines. Therefore, they sealed the premises and handed over the said Subroto Kumar Roy to the Inspector of Police, Paramakudi Town Police Station, based on which, on 02.09.2016, a case in Crime No.497 of 2016 for the offences punishable under Sections 417, 419 and 420 I.P.C. and Section 15(i)(3) of the Indian Medical Council Act and Section 18(a)(i) of Drugs and Cosmetics Act, has been registered against the said Subroto Kumar Roy. He was arrested and remanded to judicial custody and thereafter, he was released on bail. Now, it is the contention of the petitioner that the said Clinic belongs to him and that the said Subroto Kumar Roy was only an Attender and that he has been wrongly prosecuted. Even in the affidavit filed by the petitioner before this Court, he has not even given the door number, in which, he was said to be running the Clinic, whereas, the F.I.R., in this case shows that the fourth respondent inspected the premises on 02.09.2016, which had a name board "Roy Clinic" and there, they found the said Subroto Kumar Roy with Ayurvedic Medicines. Even in the writ petition, the petitioner has not produced any supporting materials to pass an order in his favour. The petitioner is attempting to bail out the main accused Subroto Kumar Roy by setting up a false plea that he was running the clinic, in which Subroto Kumar Roy was working.



9. It is brought to the notice of this Court that the landlord of the property is one Ravichandran, S/o.Muniyandi. Since this petitioner is not the landlord of the premises, he will not be entitled to the keys of the premises. It is stated that the keys of the premises are under the safe custody of the Village Administrative Officer attached to the third respondent.

10. In the result, this petition is dismissed with further direction to the concerned respondent, especially R4 to R6 to hand over the keys of the premises to the landlord of the premises after verifying his bonafides within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

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To:

- 1.The District Collector, Ramanathapuram District,
Ramanathapuram.
- 2.The Joint Director,
Medical Rural Health Services and Family Welfare Department,
Government Head Quarters Hospital, Ramanathapuram.
- 3.The Tahsildar, Paramakudi Taluk Office,
Paramakudi, Ramanathapuram District.
- 4.The Inspector of Police, Town Police Station,
Paramakudi, Ramanathapuram District.

1CC TO THE SPL GOVT PLEADER SR: 50933

KK RSK SAR 4/4 5 2017

4P 6C

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05.4.2017