

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 11.12.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.21536 of 2016 and
W.M.P. Nos.18407 and 18408 of 2016

Pradesh Bharat Sevak Samaj
rep. by its Chairman cum President

.. Petitioner

Office at 690, Poonamallee High Road,
1st and 2nd Floor,
Aminjikarai, Near Lakshmi Theatre,
Chennai.

Versus

1.The Union of India,
represented by its Secretary,
Ministry of Human Resources Development,
South Block, New Delhi.

2.The State of Tamil Nadu,
represented by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-9.

3.Tamil Nadu Nurses and Midwives Council,
represented by its Registrar,
140, Santhome High Road,
Chennai-4.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records on the file of third respondent in proceedings No.:nil, published in Thina Thanthi, dated 12.06.2016 and quash the same as illegal, unconstitutional, ultra vires and without jurisdiction.

For Petitioner : Mr.V.Srimathi,

For Respondents : Mr.B.Ramarathnam,
Central Government Standing Counsel
for R1
Mrs.P.Rajalakshmi,
Additional Government Pleader for R2
Mr.A.R.Nixon for R3

ORDER

The petitioner has come up with this writ petition challenging the impugned advertisement dated 12.06.2016 published by the Tamil Nadu Nurses and Midwives Council, the third respondent herein in Thina Thanthi.

2.The petitioner Pradesh Bharat Sevak Samaj is registered under the Societies Registration Act 1975 and its main objects are to provide health services to the rural people such as medical care, mother and child health nutrition and other rehabilitation etc. and the same being done consistently for over six years by the petitioner's society. While so, by advertisement dated 12.06.2016, the third respondent had published a notification in 'Thina Thanthi' stating that a Society or Institution imparting training as Hospital Assistant should be stopped and closed immediately. According to the learned counsel for the petitioner, the Hospital Assistants are neither nurses nor midwives and no provision has been made by the State Government to recognise such services.

3.With this background, the learned counsel appearing for the petitioner submitted that since the Hospital Assistants are neither nurses nor midwives, the third respondent cannot, unnecessarily target the petitioner and issue such advertisement in Thina Thanthi and that would cause huge damage to the name and reputation of the petitioner's Society. Learned counsel appearing for the petitioner further submitted that when the main object of the training is only to develop individual skills and around 500 to 1000 students are benefitted through the courses all over Tamil Nadu, the third respondent has misunderstood the training programme offered by the petitioner. He would further submit that if any one carrying the training certificate issued by the petitioner, can claim priority in employment or promotion and it is for the concerned institution to consider the genuineness of the certificate and it is their option to accept or reject the certificate issued by the petitioner and the third respondent cannot come to the conclusion that the petitioner has been misguiding the youths in offering or giving any guarantee for employment on the basis of certificate issued by them. Therefore, the impugned advertisement published in the Thina Thanthi cannot be put against the petitioner.

4.By way of filing counter affidavit, the learned counsel for the third respondent submitted that the petitioner has no right to create and run such Educational Institution in Tamil Nadu and the same has no right to give any academic certificate to any students. He would further submit that the State Government and Central Government are silent and mute spectators to the several complaints lodged by the council to take action

against the unauthorised Institution, offering courses and copies of the pamphlets issued by those Institutions and therefore, a writ petition was filed by the Tamil Nadu Nurses and Midwives Council represented by its Registrar, seeking a mandamus directing the Central Government and the State Government to forthwith ban the courses being conducted by the respondents 1 and 2 therein. Based on the same, this Court taking note of the facts, directed the third respondent to submit a representation to the fourth respondent therein viz. Secretary to Government, Health and Family Welfare Department with further direction to take note of the representation and take appropriate legal action forthwith to prevent such institutions which do not have proper approval from the competent authority including the petitioner therein. In the light of the direction issued, the impugned advertisement has been published in the Thina Thanthi, but the name of the petitioner has not been shown in the said advertisement and therefore, the petitioner cannot assail the impugned advertisement.

5. When it is the submission made before this Court by the learned counsel appearing for the petitioner that the Hospital Assistants are neither nurses nor midwives and the main object of the training is only to develop individual skills and the third respondent has misunderstood the training programme offered by the petitioner, I make it clear that they need not be bothered about the present advertisement. Since a reading of the counter and also the impugned advertisement failed to indicate the name of the petitioner and moreover the affidavit filed by the petitioner does not indicate that they are offering any courses, banned in the advertisement, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected W.M.Ps. are closed. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1. The Union of India,
represented by its Secretary,
Ministry of Human Resources Development,
South Block, New Delhi.

2.The State of Tamil Nadu,
represented by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-9.

3.Tamil Nadu Nurses and Midwives Council,
represented by its Registrar,
140, Santhome High Road, Chennai-4.

+lcc to Mr.A.R.Nixon, Advocate, S.R.No. 75764
+lcc to Mr.V.Raghavachari, Advocate, S.R.No. 85659
+lcc to Mr.B.Ramaratnam, Advocate, S.R.No. 85651
+lcc to the Government Pleader, S.R.No. 85853

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RJI (CO)
GN(26/12/2018)



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