



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESHW.P. (MD) No.17715 of 2018 and
W.M.P. [MD]. No.15595 of 2018

Abdul Munaf

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Health Secretary,
Health and Family Welfare Department,
St. Fort George, Chennai-9.
2. The Director General of Police,
Dr.RAdhakrishnan Salai, Chennai.
3. The Deputy Director of Medical and Rural Services,
Trichy.
4. The Inspector of Police,
Trichy City Police Station,
Trichy.

... Respondents

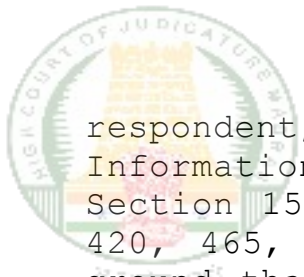
PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, forbearing the respondents from entering into premises of the petitioner clinic run under the name and style of Divine Acutheraphy situated at B-65, 2nd main road, Ramalinga Nagar (Opposite to Aruna Theatre) Uraiyur, Trichy-3.

For Petitioner : Mr.R.Murali
For Respondents : Mr.M.Rajarajan
Government Advocate[Civil Side]

ORDER

This writ petition has been filed by the petitioner being aggrieved by the action taken by the fourth respondent in closing down the clinic belonging to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner has a valid diploma in Naturopathy and Yogic Science and also to practise Acupuncture. The certificates have been granted by recognized University. The learned counsel would further submit that based on the complaint given by the third



respondent, the fourth respondent has registered an First Information Report in Crime No.443 of 2018 for an offence under Section 15(3) of the Indian Medical Council Act 1956 r/w Section 420, 465, 468 and 471 of IPC. This complaint was given on the ground that the petitioner is practising in the field, in which, he does not possess the qualification or a certificate. It is further submitted that the case is pending investigation by the fourth respondent.

3. The learned counsel for the petitioner would further submit that while so the fourth respondent has sealed the premises of the petitioner in which he was running the clinic. The learned counsel also brought to the notice of this Court an order passed on 14.11.2017 in W.P.[MD].No.10311 of 2016, wherein this Court, under similar circumstances has issued certain directions.

4. Per contra, the learned Government Advocate [Civil Side] submits that, since the case is under investigation, the petitioner cannot be permitted to practise without a qualification and if the petitioner is permitted to practise medicine, the safety of the public will be put to jeopardy.

5. Admittedly, in this case there is a First Information Report pending against the petitioner for unauthorisedly practising medicine in a field, in which, the petitioner does not possess the qualification. The learned counsel for the petitioner submitted that the petitioner will practise only Acupuncture and Naturopathy for which he is qualified and certificates have been granted by authorised University. The learned counsel further submitted that the petitioner specifically undertakes not to practise Allopathy and in (Paragraph No.6) of the affidavit an undertaking has also been given to the following effect.

"6....The petitioner hereby gives an undertaking that he will strictly practice the area in which he is specialized in the subject and his clinic may be allowed to function without any legal barriers."

6. This Court while dealing with the writ petition filed by an Association has given the following directions:-

"..2...Having regard to the prayer in this petition, seeking injunction, restraining the second and third respondents from entering the premises of the practise of Acupuncture by the members of the petitioner association, this Court is inclined to pass the following direction:

<https://hcservices.ecourts.gov.in/hcservices/>

"The members of the petitioner association are permitted to practise Acupuncture and other system



of medicine. The members of the petitioner Association shall also produce the decree or certificate, which is authorizing the members of the petitioner Association, to practise Acupuncture, whenever, the second and third respondents or any other police officials require for production of certificate, which prove the credential of the members of the petitioner Association, confirming that they are authorised to practise Acupuncture".

7. Taking into consideration the undertaking given by the petitioner and the earlier order passed by this Court, the petitioner is directed to submit before the fourth respondent his certificates in order to enable the fourth respondent to verify the authenticity of the certificate and also to determine the area of practise that can be done by the petitioner. The fourth respondent on being satisfied after verification of the certificate, can de-seal the premises of the petitioner. The petitioner shall thereafter practise only Acupuncture and Naturopathy and in no other field of medicine.

8. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Health Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
St. Fort George, Chennai-9.
2. The Director General of Police,
Dr. R. Adhakarishnan Salai, Chennai.
3. The Deputy Director of Medical and Rural Services,
Trichy.
4. The Inspector of Police,
Trichy City Police Station, Trichy.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 78169

SJI

TE/RSK/SAR-2 : 06/09/2018 : 3P/6C

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