IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 14TH DAY OF DECEMBER 2020 / 23RD AGRAHAYANA, 1942

WP(C).No.27718 OF 2020(S)

PETITIONER/S:

JITINLAL
AGED 31 YEARS
S/O. SUBRAMANIAN, NAMBIATHARA HOUSE, VEMBALLUR P.O., KODUNGALLUR, THRISSUR DISTRICT-680671.

BY ADVS.
SRI.T.S.SARATH
SRI.MANU RAMACHANDRAN
SRI.R.RAJESH (VARKALA)
SRI.M.KIRANLAL
SHRI.SAMEER M NAIR

RESPONDENT/S:

1 **STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, MINISTRY OF HEALTH DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001.**

2 **CENTRAL COUNCIL OF INDIAN MEDICINE, REPRESENTED BY ITS CHAIRPERSON, VAIDYA JAYANT DEOPUJARI, JAWAHAR LAL NEHRU BHARTIYA CHIKITSA AVAM, HOMOEOPATHY ANUSANDHAN, BHAWAN, 61-65, INSTITUTIONAL AREA, JANAKPURI D BLOCK, NEW DELHI-110058.**

3 **NATIONAL MEDICAL COMMISSION, REPRESENTED BY ITS CHAIRMAN, DR. SURESH CHANDRA SHARMA, POCKET-14, SECTOR-8, DWARKA PHASE-1, NEW DELHI-110077, INDIA.**

4 **INDIAN MEDICAL ASSOCIATION, REPRESENTED BY ITS NATIONAL PRESIDENT DR. RAJAN SHARMA, I.M.A. HOUSE, INDRAPRASTHA MARG, NEW DELHI-110002, INDIA.**

**5 INDIAN MEDICAL ASSOCIATION,
KERALA STATE BRANCH, REPRESENTED BY ITS PRESIDENT,
ABRAHAM VARGHESE, IMA KERALA STATE BRANCH HQRS.,
P.O. ANAYARA, THIRUVANANTHAPURAM, KERALA-695029.**

**6 MINISTRY OF HEALTH AND FAMILY WELFARE,
REPRESENTED BY ITS SECRETARY, NEAR UDYOG BHAWAN
METRO STATION, MAULANA AZAD ROAD, NEW DELHI, DELHI-
110011.**

**7 MINISTRY OF AYUSH,
REPRESENTED BY ITS SECRETARY, AYUSH BHAVAN, B
BLOCK, GPO COMPLEX, INA, NEW DELHI-110023.**

OTHER PRESENT:

**SRI.ARAVIND KUMAR BABU, SR GP FOR R1, SRI.S.MANU,
FOR R2, SRI.TITUS MANI, SC FOR R3, SRI. GIREESH
KUMAR, CGC FOR R6 AND R7**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Dated this the 14th day of December 2020

S. Manikumar, C. J.

Probably on newspaper reports, petitioner has alleged that medical practitioners, i.e. Junior Doctors and internees of Post Graduates, have gone on strike and that therefore on the above premise, sought for a mandamus directing the respondents to declare the strike by IMA as arbitrary, unreasonable and illegal and hence violative of the fundamental rights guaranteed under the Constitution of India.

2. Except the above averments, there are no materials to indicate that IMA has called for a strike. Petitioner has enclosed in the writ petition, the decision of the Central Council of Indian Medicine dated 19.11.2020, framing regulations called as the Indian Medicine Central Council (Post Graduate Ayurveda Education) Amendment Regulations, 2020, permitting certain surgeries to be performed by the Doctors practicing Ayush medicine. Yet another document enclosed in

support of the contention of the petitioner that IMA has called for strike is Ext. P2 decision of the Indian Medical Association (HQs.) dated 01.12.2020 by which certain decisions have been taken on 29.11.2020. Ext. P2 decision dated 01.12.2020 reads thus:-

"01.12.2020

New Delhi

Withdraw the CCIM notification and the NITI AAYOG committees for integration: IMA

Press Release

Indian doctors have leadership in modern medicine. The premier medical colleges of the country were established in the 19 century. Certain revolutionary discoveries like the malarial parasite, treatment and vaccinations are part of the indian legacy. Today India remains the frontier of modern medicine in both evidence based and clinical streams. Advanced and sophisticated surgeries and procedures are done at a fraction of the cost than in West Indian doctors are supporting Health Systems globally.

The recent policy tilt as evidenced in the medical pluralism advocated by the National Education Policy 2020 and the four committees of NITI AAYOG for officially integrating the systems of medicine in medical education, practice, public health and administration as well as research ostensibly for an one Nation One System policy will ring the death knell of modern medicine system as a whole. The notification of the amendment to the CCIM Act on Post graduate Ayurveda surgery and the

entitlement to study and practice independently have to be seen as another step in advancing and legitimising mixopathy. Infact the purity and identity of Ayurveda stands equally challenged. That the council prescribed modern medicine text books and Ayurveda institutions practised surgery with the assistance of modern medical doctors cannot be reason enough to legitimise encroachment into the jurisdiction and competencies of modern medicine.

The 224th Central Working Committee of Indian Medical Association took strong exception to this development which promotes mixopathy.

Decisions of 224 emergency CWC IMA on 29.11.2020

1. IMA opposes and condemns the predatory poaching on Modern Medicine and its surgical disciplines by CCIM.
2. 2 IMA will resist and fight back this criminal plagiarism. IMA sees this as an another step to legitimise mixopathy. This illegal notification by CCIM is the culmination of the Khichadification of medical education and practice initiated by National Education Policy and NITI AAYOG.
3. IMA launches the freedom struggle of modern medicine from the forces of mixopathy. The following direct actions were decided upon:

    a. Public demonstrations.
    b. Withdrawal of non-essential, non-Covid services

4. Legal options to be followed simultaneously.

5. To seek the help and support of sister professional organisations, Government Doctors Associations, Hospitals associations, RDAs, Medical College Teachers Associations, and medical students."

3. Going through the material on record, we find that there is no supporting documents to prove that IMA has called for any strike. The word strike is nowhere used in Ext. P2 decision dated 01.12.2020.

In the light of the above, we are of the view that there is nothing to declare that the alleged strike called for by IMA as arbitrary. However, it is observed that at this juncture of Covid 19 pandemic, services provided to the people should not be affected. Petitioner is at liberty to file fresh writ petition with supporting documents.

Accordingly, writ petition is dismissed.

Sd/-

S. MANIKUMAR
CHIEF JUSTICE

Sd/-

SHAJI P. CHALY
JUDGE

Eb

///TRUE COPY/// P. T TO JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**A TRUE COPY OF GAZETTE NOTIFICATION DATED 20/11/2020.**
EXHIBIT P2	**THE TRUE COPY OF THE PRESS RELEASE DATED 01/12/2020.**