

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22428 of 2008

and

M.P.No.1 of 2008 and W.M.P.No.25117 of 2017

South Arcot New Sidha and Omiyopathy Doctor Society,
rep. By its Secretary, N.Rathinam,
Sendoor Post, Tindivanam Taluk,
Villupuram District. Petitioner

vs.

1. The State of Tamil Nadu,
rep. By the Commissioner and
Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai 600 009.
2. The Director General of Police,
Tamil Nadu, Mylapore,
Chennai.
3. The Home Secretary to Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
4. The Superintendent of Police,
Villupuram District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the Respondents from enforcing the penal provisions of the Indian Medical Council Act, 1956 and Drugs and Cosmetics Act, 1940 and other penal provisions of the Indian Penal Code, in the case of private native medicine practitioners who are members of the Petitioner Association practicing in Villupuram District in the State of Tamil Nadu.

For Petitioner : Mr.K.Balakrishnan
For Respondents: Mr.K.Magesh,
Special Government Pleader

O R D E R

Petitioner-Society has come up with this Writ Petition seeking to forbear the Respondents from enforcing the penal provisions of the Indian Medical Council Act, 1956 and Drugs and Cosmetics Act, 1940 and other penal provisions of the

Indian Penal Code, in the case of private native medicine practitioners, who are members of their Association, practicing in Villupuram District in the State of Tamil Nadu.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. The relief sought for by the Petitioner-Society cannot be granted as such. If there are any violations, Respondents are bound to take action in terms of the provisions of the Act mentioned supra and the Secretary of the Petitioner-Society shall participate in the enquiry, if he is called to participate in the same. It is made clear that, in the guise of enquiry, the Petitioner need not be harassed. So also, the Petitioner shall not evade in attending the enquiry on the ground that, there is harassment from the Police. Unless and otherwise, proper materials are provided by the Petitioner, Respondents will not be in a position to ascertain as to whether there is genuineness in the conduct of the Petitioner.

4. Hence, without granting the relief sought by the Petitioner, this Court permits the Respondents to proceed with the penal provisions of the Act mentioned supra, in case, they come to know that, any Doctor pertaining to the Petitioner Association has treated patients with medicines other than Siddha and Homeopathy, without following the guidelines mentioned in the various provisions of the Act.

5. The Petitioner-Society shall furnish the list of its members to the Respondents, together with their Registration Number, Residential Address and Mobile Number in order to enable the Respondents to ascertain the genuineness of the members and the Petitioner-Society.

This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

1. The Commissioner and
Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George,
Chennai 600 009.

2. The Director General of Police,
Tamil Nadu, Mylapore,
Chennai.
3. The Home Secretary to Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.
4. The Superintendent of Police,
Villupuram District.

+1cc to the Government Pleader, S.R.No. 28141

W.P.No.22428 of 2008

RSV(CO)
GN(15/10/2020)



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