

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.No7766/2020 & WMP.No.9148/2020

Dr.M.N.Sankar

Petitioner

Versus

- 1.The Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, C-Wing, New Delhi 110 011.
- 2.The Secretary,
Ministry of Ayush,
Ayush Bhawan, B Block, GPO complex,
New Delhi 110 023.
- 3.The Director,
Central Council for Research in Yoga and Naturopathy,
61-65, Institutional Area, Janakpuri,
New Delhi 110 058.
- 4.The Secretary DHR/Director General,
Indian Council of Medical Research,
V.Ramalingaswami Bhawan,
P.O.Box No.4911, Ansari Nagar,
New Delhi 110 029.

5.The Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.

6.The Commissioner of Indian Medicines,
Anna Arch, PP Garden,
Arumbakkam, Chennai 600 106.

.. Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus for a direction to consider the representation dated 06.05.2020 made by the petitioner to grant permission to provide acupuncture method of naturopathy treatment for the patients affected by noval corona virus disease - COVID 19.

For Petitioner : Mr.T.Sundaravadhanam
For RR 1 to 3 : Mr.G.Rajagopalan
Addl.SolicitorGeneral of India
assisted by
Mr.Srinivasa Murthy, SPCGC
For R4 : Ms.N.Mala
For RR 5 & 6 : Mr.V.Jayaprakash Narayan, GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

(1)By consent, the writ petition is taken up for final disposal. Mr. Srinivasa Murthy, learned Senior Panel Counsel for the Central Government accepts notice on behalf of respondents 1 to 3 ; Ms.N.Mala, learned Standing counsel accepts notice on behalf of the 4th respondent / ICMR and Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of respondents 5 and 6.

(2)The petitioner claims to be a practicing Acupuncture system of naturopathy treatment to the needy people for the past 28 years and he would further state that he has completed B.Sc., from Madurai Kamarajar University, M.D.[ACU] from International University of Complementary Medicine, Srilanka and Ph.D., in Advance Acupuncture from Shanghai University, China with highly

advanced treatments provided to various diseases in natural method without consumption of any drugs. It is further stated by the petitioner that he has been honoured with Millenium Gold Medal by ABI-USA, Life Time Achievement Award, Bharath Jyothi, Seva Rathna and selected one amongst 2000 outstanding personalities by Cambridge University, United Kingdom for practicing Acupuncture and attended several national and international Seminars in the field of Acupuncture. The petitioner also claims that he is also functioning as the Founder and President of Complementary Medical Academy of Acupuncture Science and also served as Senate Member, University of Madras and apart from practice, he has been rendering lectures throughout the country in the field of Acupuncture and Naturopathy.

- (3) A reading and consideration of paragraph No.2 of the affidavit would prima facie disclose and rather lack of particulars as to the recognition of M.D.[ACU] from the National University of Medicine, Srilanka and Ph.D in Acupuncture obtained by the petitioner from Shanghai University, China. It is also to be noted at this juncture that any medical degree or para-medical degree is to be recognised by the concerned Statutory Body and however, the affidavit is silent on that aspect.
- (4) Be that as it may, the petitioner claims that Acupuncture is one of the recognised system of medicine in China and the said country has also issued guidelines to the Acupuncture authorities to treat the COVID-19 affected patients and it has also shown good results and therefore, the said system of medicine may be tried here for the purpose of treating patients who are affected due to pandemic COVID-19 virus.
- (5) Mr.T.Sundaravadhanam, learned counsel for the petitioner has invited the attention of this Court to the Office Memorandum dated 21.04.2020 bearing No.Z-28015/2020-HPC [EMR] Ayush, Government of India, Ministry of AYUSH, EMR Section and would submit that as per the said Office Memorandum, the Ministry of Ayush, with an intention to support short-term research proposals for evaluating the role and impact of AYUSH interventions/medicines in the prophylaxis and clinical management of SARS-CoV-2 infection and COVID-19, has designed a mechanism for the same and the said communication also states that all the concerned offices are requested to circulate the said Office Memorandum and Annexures to all the Institutions/Hospitals engaged in the prophylactic treatment and clinical management of COVID-19 cases and give it, a wide publicity. The petitioner, in this regard, has also submitted

a detailed representation dated 06.05.2020 to the Hon'ble President of India, Hon'ble Prime Minister of India, Hon'ble Minister of Home Affairs, Government of India, Hon'ble Minister for Health and Family Welfare, New Delhi and also to the State Government officials and according to the learned counsel for the petitioner, the Acupuncture system of medicine if allowed to practice and treat the COVID-19 patients, it would definitely yield fruitful results and prays for appropriate orders.

(6) The Court heard the submissions of Mr. Srinivasa Murthy, learned Senior Panel Counsel for the Central Government appearing for respondents 1 to 3 ; Ms.N.Mala, learned Standing counsel appearing for the 4th respondent / ICMR and Mr.V.Jayaprakash Narayan, learned Government Pleader appearing for respondents 5 and 6.

(7) Mr.V.Jayaprakash Narayan, learned Government Pleader appearing for the respondents 5 and 6 would submit that as per G.O.Ms.No.201, Health and Family Welfare [P1] Department dated 23.04.2020, the Government has formulated a special programme with AYUSH interventions for COVID-19 and it speaks about only Siddha, Yoga and Naturopathy system of medicine as well as Unani and Homeopathy system of medicine

and since the claim of the petitioner in the affidavit filed in support of the writ petition lacks necessary materials for the clinical trial support, this Court may not pass a positive order for considering and disposal of the representation.

(8) Ms.N.Mala, learned standing counsel appearing for the 4th respondent would submit that she is yet to be served with the papers.

(9) This Court has considered the rival submissions and also perused the materials placed before it.

(10) Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation said to have been sent through E-Mail or in this writ petition, permits the petitioner to submit a detailed representation with supporting materials and relevant necessary documents to the respondents 1 to 4 within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, respondents 1 to 4 are directed to consider the same on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner herein.

(11)The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To

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