



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.06.2020

Pronounced on : 07.07.2020

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CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

and

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP. (MD) No. 6570 of 2020

Dr.S.Subramanian, B.S.M.S.,
S/o.Late N.Singaram

: Petitioner

Vs.

- 1.The Union of India,
Rep. by Secretary to Government,
Health and Family Welfare Department,
New Delhi - 110 001.
- 2.The Central Council for Research in
Ayurveda and Siddha (CCRAS),
61-65, OPP "D" Block,
Janakpuri Institutional Area,
Janakpuri, New Delhi - 110 058.
- 3.The State of Tamil Nadu,
Rep. by Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Chennai - 600 009.
- 4.The Chairman,
Tamil Nadu State High Power Committee,
Rep. by Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Chennai - 600 009.
- 5.The Deputy Director & Head,
Department of Virology,
King Institute of Preventive Medicine & Research,
Guindy, Chennai - 600 032.



6. The Secretary,
Ministry of AYUSH,
'B' Block, GPO Complex, INA,
New Delhi - 110 023.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the sixth respondent to conduct the virology study in the medicine submitted by the petitioner called as IMPRO and to inform the result of such test/s to the other respondents as well as to the petitioner, within a stipulated time limit.

For Petitioner : Mr.S.Vinodh

For Respondents : Mr.V.Kathirvelu,
Assistant Solicitor General
Assisted by
Mr.K.Prabhu, CGSC
for R.1, R.2 & R.6

Mr.K.Chellapandian,
Additional Advocate General
Assisted by
Mr.V.R.Shanmuganathan,
Special Government Pleader
for R.3 to R.5

O R D E R

(Order of the Court was made by **B.PUGALENDHI, J.**)

The petitioner, a Graduate in Siddha Medicine, who is now working as a Medical Officer in the Government Siddha Medical College, Palayamkottai, has approached this Court that he formulated a medicine, which is a mixture of 66 Herbs, in the form of powder and this powder, if boiled in water and consumed twice a day, would develop immunity power in the human body and that could prevent as well as cure several diseases. The petitioner named his medicine as 'IMPRO' and sent a representation to the respondents 1 to 5 on 27.04.2020 for a Virology study of his medicine and also applied to the sixth respondent vide their website as well as E-mail on 14.05.2020. Since his representation was not considered by the respondents, he has filed this writ petition.

2. In fact, the Ministry of AYUSH, in its website, invited suggestions based on scientific explanations and proposals on therapies and procedures that could restrain the spread of COVID-19.



3. Considering the track record of the petitioner that he is a qualified Degree Holder in Siddha Medicine, having an experience of 30 years and also working as a Medical Officer in the Government Siddha Medical College, we entertained this writ petition.

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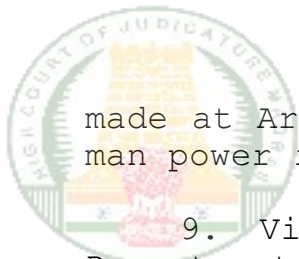
4. The petitioner along with his Counsel appeared and submitted that most of the ingredients of the petitioner's medicine are Herbs and the same, if boiled with water and taken twice a day, would increase the immunity power and it would also maintain the equilibrium of Tridoshas, namely, வாது, பித்த, கப and there will not be any side effects.

5. Mr.V.Kathirvelu, learned Assistant Solicitor General took notice for respondents 1, 2 & 6 and Mr.K.Chellapandian, learned Additional Advocate General took notice for respondents 3 to 5.

6. Mr.V.Kathirvelu, learned Assistant Solicitor General submitted a written instruction received from the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha, Sowa-Rigpa and Homoeopathy (AYUSH) that they have received around 3500 such requests and it is humanly impossible for them to take action on all the applications. Moreover, the petitioner, vide his representation, has also sought for patent rights for his 'IMPRO' medicine, which does not come under their purview. However, the learned Assistant Solicitor General placed on record the letter dated 06.03.2020, together with Annexures of the Secretary, Government of India, Ministry of AYUSH, that have been provided by the Government for treating COVID-19.

7. Nilavembu Kudineer and Kabasura Kudineer decoction 60ml, twice a day, is prescribed as one of the preventive method to fight against COVID-19. Another syrup of Adathodai Manapagu is also prescribed in the said advisory issued by the Government and that these advisories are made with the recommendations from Research Councils. Apart from the above Siddha medicines, certain medicines have also been prescribed as Preventive and Prophylactic from Ayurveda, Unani and Homoeopathy system of medicine. Certain Anti-viral Siddha Formulations and Anti-viral Siddha Herbs were also referred to in the guidelines for Siddha Practitioners for COVID-19.

8. Mr.K.Chellapandian, learned Additional Advocate General placed on record the written instructions received from the Director of Indian Medicine and Homoeopathy Department along with a copy of G.O.Ms.No.201, Health and Family Welfare (IM I-1) Department, dated 23.04.2020, issued by the Government of Tamil Nadu. Vide the written instructions, the Director of Indian Medicine and Homoeopathy Department stated that the Government of Tamil Nadu has established a Research and Development Wing and a sum of Rs.12 Crores has been sanctioned for purchase of machineries. The procurement of



made at Arumbakkam, Chennai-106 and orders as to the recruitment of man power is awaiting from the Government.

9. Vide G.O.Ms.No.201, Health and Family Welfare (IM I-1) Department, dated 23.04.2020, a Special Programme namely Aarokyam has been implemented with AYUSH interventions to combat COVID-19. Vide G.O(D).No.405, Health and Family Welfare (IM I-1) Department, dated 03.04.2020 and G.O(D).No.420, Health and Family Welfare (IM I-1) Department, dated 15.04.2020, the Government of Tamil Nadu constituted a committee under the chairmanship of the Director of Indian Medicine and Homoeopathy, to explore the feasibility of using Indian System of Medicine for treatment of COVID-19 with the following members:

1.	Dr.S.Ganesh, I.A.S., Director of Indian Medicine and Homoeopathy, Chennai.	Chairman
2.	Dr.P.Parthiban, Joint Director of Indian Medicine and Homoeopathy, Chennai.	Member
3.	Dr.N.Manavalan, Joint Director (Ex-officio), Yoga and Naturopathy, Directorate of Indian Medicine and Homoeopathy, Chennai.	Member
4.	Dr.K.Kanagavalli, Director General, CCRS, Chennai.	Member
5.	Dr.R.Meenakumari, Director, NIS, Chennai.	Member
6.	Dr.S.S.Ravichelvan, Medical Officer (Ayurveda).	Member
7.	Dr.B.Andrew Leo, Assistant medical Officer (Homoeopathy).	Member
8.	Dr.Chand Usmani, Professor (Unani).	Member
9.	Dr.M.Pitchaiah Kumar, State Licensing Authority, Chennai.	Member
10.	Thiru Siva Balan, State Drugs Controller.	Member
11.	Thiru M.N.Sridhar, Deputy Director of Drugs Control.	Member
12.	Dr.Ragunanathan, Director, Head of the Department of Medicine, MMC.	Member
13.	Dr.G.Sivaraman, BSMS, Ph.D., Siddha Physician, Chennai.	Member



14. Prof.S.P.Thyagarajan, Ph.D., M.D., D.Sc., FNASc., FAMS., FIMSA., FABMJS., FFTM (RCPS, Glasglow) Professor of Eminence and Dean (Research), Sri Ramachandra Institute of Research.	Member
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10. On the recommendations of this Committee, certain advisories have been made, such as, Kabasura Kudineer, Nilavembu Kudineer, Amukara Chooranam and Nellikai Lekiyam for Immune Enhancement and Convalescence. Apart from the above Siddha medicines, certain recommendations have been made in Ayurvedha, Yoga and Naturopathy, Unani and Homoeopathy systems of medicine.

11. In view of the submissions made supra, this Court, by order dated 23.06.2020, issued a direction to the Director of Indian Medicine and Homoeopathy Department, Chennai, to examine the medicine 'IMPRO' suggested by the petitioner by the Expert Committee. Accordingly, the petitioner has also appeared before the Expert Committee at the Directorate of Indian Medicine and Homoeopathy, Chennai, on 26.06.2020 at 10.00 am and submitted his documents to the Committee.

12. When the matter was taken up for hearing on 30.06.2020, the written instructions of the Principal Secretary to Government, Health Department, Government of Tamil Nadu, as position note was submitted before us that the Expert Committee has carefully scrutinized the documents submitted by the petitioner and found that the claimed medicine 'IMPRO' have ingredients of 66 Herbs and also verified the existing scientific documents of the ingredients and decided that his formula may have Anti-viral effect. The Committee has also decided to place these materials along with the drug 'IMPRO' to the Central Council for Research in Ayurvedic and Siddha (CCRAS), New Delhi, for perusal and for further necessary action.

13. Right to Health is guaranteed under the Constitution and it is the duty of the Government to provide timely medical treatment to a patient of need.

14. In **Paschim Banga Khet Mazdoor Samity and Others vs. State of West Bengal and Another**, reported in (1996) 4 SCC 37, the Hon'ble Supreme Court has held as follows:

"16. It is no doubt true that financial resources are needed for providing these facilities. But at the same time it cannot be ignored that it is the constitutional obligation of the State to provide adequate medical services to the people. Whatever is necessary for this purpose has to be done. In the context of the constitutional obligation to provide free legal aid to a poor accused this Court has held that the State cannot avoid its constitutional obligation in that regard on account of financial constraints. [See: Khatri



(II) v. State of Bihar [(1981) 1 SCC 627 : 1981 SCC (Cri) 228], SCC at p. 631.] The said observations would apply with equal, if not greater, force in the matter of discharge of constitutional obligation of the State to provide medical aid to preserve human life. In the matter of allocation of funds for medical services the said constitutional obligation of the State has to be kept in view. It is necessary that a time-bound plan for providing these services should be chalked out keeping in view the recommendations of the Committee as well as the requirements for ensuring availability of proper medical services in this regard as indicated by us and steps should be taken to implement the same. The State of West Bengal alone is a party to these proceedings. Other States, though not parties, should also take necessary steps in the light of the recommendations made by the Committee, the directions contained in the memorandum of the Government of West Bengal dated 22-8-1995 and the further directions given herein.

17. The Union of India is a party to these proceedings. Since it is the joint obligation of the Centre as well as the States to provide medical services it is expected that the Union of India would render the necessary assistance in the improvement of the medical services in the country on these lines."

15. The Government is also realising the same and has allotted substantial amount for health care. Both the Central and State Governments are spending huge amount for Health Care from their Exchequer. But, unfortunately 90% of the amount is spent only for the Modern Medicine and there is no patronize for the Indian System of Medicine. Though the Central Government has allotted around 2000 Crores for the Department of AYUSH in its 2020-21 budget, no amount has been allotted exclusively for the Siddha system of medicine.

16. Every Country is having their own indigenous system of medicine and those medicine are practiced on experience. Our ancestors and Siddhars have formulated several medicines based on their experiences and with those medicines, our ancestors led a healthy life. In fact, they have even conquered Countries beyond our territories - கட்டாரங்கொண்டான். Every one of us, at some point, experienced the benefits of indigenous medicine for certain minor ailments. Those Grandmother's treatment (பாட்டி வைத்தியம்) is also slowly vanishing, since the present day generation is slowly switching on to fast foods and ready made foods.

17. The Siddha system of medicine is a combination of Herbs, Minerals and Metal. The ingredients like Ginger, Pepper, Garlic, Manjal, Lime in every day meal in our system itself is effectively boosting the immune system and most of them is recommended by the



Department of AYUSH as Anti-viral Herbs in their advisory to combat COVID-19.

18. Our Indian system of food itself is providing sufficient immune system and that is how, we are effectively managing the present pandemic. The fact remains compared to the death rate on the COVID-19 affected patients with similarly affected other Countries, the death rate in India is 2.9 % and in Tamil Nadu, it is 1.3 % and in Kerala, it is 0.5 %.

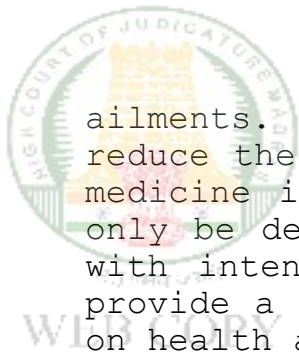
19. The State of Kerala is patronising the Ayurveda system of medicine and the Ayurveda medicines are commonly available in the State. The State of Tamil Nadu has effectively handled the Dengu fever by promoting the Siddha medicine - Nilavembu Kudineer. Now, the Kabasura Kudineer is promoted as an effective immune booster and it is provided to all the people as a preventive medicine and also as a convalescence to the patients recovered from COVID-19.

20. Only during the pandemic situation, importance is given to such indigenous medicine, as it is cost effective compared to modern medicine. The Siddha system of medicine evolved before many centuries and are preserved in Olai Chuvadis and the importance of medicine is also recognized as a Graduation. Even today, there are three Siddha Colleges available in the State of Tamil Nadu, affiliated to Dr.MGR University. The students are conferred with a Bachelors Degree on Siddha as B.S.M.S., and Masters Degree and Research Studies are also available in those Colleges, without any research facilities. In fact, the Government is also claiming that the COVID-19 patients, who have been admitted in the exclusive ward where Siddha medicine has been administered, have all successfully recovered.

21. Though the Department of Indian Medicine and Homoeopathy has been constituted long back, now only a sum of Rs.12 Crores is allotted by the Government of Tamil Nadu for purchase of machineries, in view of the present situation. Even then, the machineries are yet to be used for want of required Technicians. The Expert Committee has also been constituted only on 03.04.2020 and 15.04.2020. Though there are eight Siddha Research Institutes in India, viz., three in Tamil Nadu and one each in New Delhi, Puducherry, Kerala, Karnataka and Andra Pradesh, there is no sufficient allocation of funds for Research and Development on Siddha medicine.

22. With an objective to protect the rights guaranteed under the Constitution, the Government of India as well as Government of Tamil Nadu are spending huge amounts for medical insurance.

23. Prevention is better than cure. The Indian System of Medicine is almost as a food cum medicine. Most of the ingredients of our daily meal itself is an effective medicine for several



ailments. A proper research and accreditation can considerably reduce the expenses for the insurance schemes. The Siddha system of medicine is itself based on the principle that a healthy soul can only be developed through a healthy body. The combination of Herbs with intense yogic practice, periodic fastings and meditation can provide a healthy body, which could ultimately reduce the exchequer on health aspects.

24. Considering this pandemic situation, for want of a proper medicine, the entire Country is under lockdown for nearly 100 days. The entire economic activities become stand still. The amount of loss incurring to every individual and also to the State cannot be compared with value of money. We are all in a situation like 'எதைத் தின்றால் பித்தம் தெளியும்'. When we have precious medicines like Siddha and Ayurvedha, a little more support to these systems of medicine from the Government would considerably reduce the medical expenses for a common man. But every system of medicine must be proved by known and accepted methods, verified and approved by the Experts in the field of medicine that it can be permitted to be used by the public.

25. The cost of modern medicine is also now alarming, but the modern medicine is having a lucrative business, having sufficient research facilities and infrastructure and clinical trials, so that it enjoys confidence over a common man compared to other systems of medicine.

26. Even most of the modern medicines are extracts of certain Herbs, which are commonly practised in the Siddha system of medicine. The available medicine for Hepatitis-B in modern medicine is an extract of Keelanalli, a Herb widely used in Siddha medicine.

27. What is required is some more patronage to the Siddha medicine for its Research and Development. The amount allotted may not be sufficient to achieve the object. The Expert Committee now constituted by the Government of Tamil Nadu pursuant to COVID-19 may be allowed to continue and this team can even be enlarged with some more experts and the available valuable scripts of the Siddhars have to be analysed by the Expert Committee scientifically, by adopting all methods, in which the modern medicine is now patented. The Government must have the patent and also has to ensure the availability of these approved medicines commonly in all the medical shops.

28. The development of our indigenous medicine will not only be beneficial for our people, but for the entire mankind. Our expertise can be recognized world wide, as Yoga has been recognized by people all over the world. As our Hon'ble Prime Minister told, Yoga is a gift to the mankind [June 21 - International Yoga Day]. If the Government patronize the Siddha system of medicine, it would also be a gift of our Country to the entire World.



29. It would be worthwhile to mention here that though the Government announced using of Kabasura Kudineer and Nilavembu Kudineer vide their Government Orders, some miscreants are misusing the same and are exploiting the situation with fake products, which would ultimately affect the credentials of the system of medicine. There must be some proper mechanism to curb these type of fake medicines also.

30. Since the Expert Committee has already recommended the petitioner's medicine 'IMPRO' to the Central Research Laboratory, the respondents 1 & 2 shall take immediate steps to verify the same as early as possible and file a report before this Court by **03.08.2020**.

With the above observations and directions, this writ petition stands disposed of.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)

gk

To

1. The Secretary to Government,
Union of India,
Health and Family Welfare Department,
New Delhi - 110 001.
2. The Central Council for Research in
Ayurveda and Siddha (CCRAS),
61-65, OPP "D" Block,
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3. The Secretary to Government of Tamil Nadu,
State of Tamil Nadu,
Health and Family Welfare Department,
Chennai - 600 009.
4. The Chairman / Secretary to Government,
Tamil Nadu State High Power Committee,
Health and Family Welfare Department,
Chennai - 600 009.



5. The Deputy Director & Head,
Department of Virology,
King Institute of Preventive Medicine & Research,
Guindy, Chennai - 600 032.

6. The Secretary,
Ministry of AYUSH,
'B' Block, GPO Complex, INA,
New Delhi - 110 023.

Order made in
WP. (MD) No. 6570 of 2020
07.07.2020

SE (CO)
TR (09.07.2020) 10P 7C