



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.15583 of 2020

V.J.B.Bagyanathan

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Home Department, Fort St. George,
Chennai-600 009.
 2. The State of Tamil Nadu
Rep. by its Commissioner
and Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.
 3. The Director General of Police,
Kamarajar Road, Chepauk,
Chennai-600 005.
 4. The Registrar,
Tamil Nadu Board of Indian Medicine,
Arignar Anna Government Hospital of Indian Medicine Campus,
Arumbakkam, Chennai - 600 020.
 5. The Inspector of Police,
Town Police Station,
Opp. to Taluk Office,
Palani,
Dindigul District - 624 601.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, forbearing the Director General of Police, Kamarajar Road, Chepauk, Chennai - 600 005, namely the 3rd respondent herein from initiating any police action by labelling the petitioner as unqualified as the petitioner is a Registered Indian Medical Practitioner and thus ensure the safety to his profession in the field of Indian System of Medicine in Ayurvedha at Sri Banu Herbals, No.41-A, Javagar Street, Opp. Thiruavinan Kudil, Palani, Dindigul District - 624 601.



For Petitioner
For R1 to R3 & R5

: Mr.D.Ashok Kumar
: Mr.R.Srinivasan
Government Advocate

ORDER

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The petitioner would state that he has been issued with Medical Registration Certificate bearing Certificate No.BA 22800 by the Tamil Nadu Board of Indian Medicine, Chennai and he is allowed to practice Ayurvedha System of Medicine and it is valid till date.

2.The learned counsel appearing for the petitioner would submit that by virtue of the above stated Certificate given to the petitioner, he is entitled to practice Ayurvedha System of Medicine and under the guise of practising the said System of Medicine, he has never indulged in prescribing or practising Allopathy System of Medicine and since he is not qualified for MBBS, he is branded as quacks Doctors and the fifth respondent under the guise of enquiry, are repeatedly harassing him and interfering with his lawful professional activities and therefore, he has come forward to file this writ petition.

3.The learned counsel appearing for the petitioner has also drawn the attention of this Court to the order dated 08.11.2011 made in W.P.No.20191 of 2011 (Dr.N.Sankaramurthy Vs. The State of Tamil Nadu rep. by its Secretary to Government, Home Department, Fort St.George, Chennai 600 009 and others), the interim order dated 21.02.2014 made in W.P.No.4961 of 2014 and M.P.No.1 of 2014 and the order dated 26.04.2016 made in W.P.Nos.14602 and 14603 of 2016 (A.Thandavamoorthy and another Vs. The State of Tamil Nadu rep. by its Secretary to Government, Home Department, Fort St.George, Chennai 600 009 and others) and prays for appropriate orders.

4.Per contra, the learned Government Advocate would submit that the petitioner under the guise of practising Ayurvedha System of Medicine, cannot prescribe or administer injections, which is unique to Allopathy System of Medicine and since some complaints have emanated against him, the fifth respondent, in discharge of his lawful duties, is conducting enquiry, strictly, in accordance with law.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it.

6.As per the typed set of documents, the petitioner was issued with Medical Registration Certificates to practice Ayurvedha System of Medicine and in the affidavit filed in support of the writ petition, he has specifically stated that he is practising only the said System of Medicine and not any other Form or System of Medicine.



7. Under Article 19(1)(g) of the Constitution of India, a citizen of India is entitled to practise any profession, or to carry on any occupation, trade or business subject to reasonable restrictions.

8. Considering the submission made by the petitioner that he is practising only Ayurvedha System of Medicine, the fifth respondent under the guise of enquiry, cannot disturb or interfere with his lawful profession. However, if the fifth respondent comes across any tenable material as to any violation of law/infracton on the part of the petitioner, the said Official is always at liberty to proceed against the petitioner, strictly, in accordance with law.

9. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

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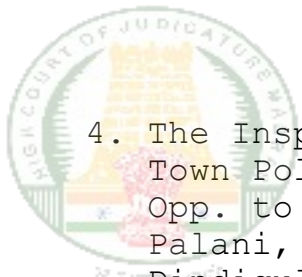
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner
and Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.
3. The Director General of Police,
Kamarajar Road,
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4. The Inspector of Police,
Town Police Station,
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Dindigul District - 624 601.

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DATED : 06.11.2020

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CS(03.12.2020) 4P 5C