



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.14625 of 2020

M.S.K.Thangavel @ K.Thangavelu

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by the Principal Secretary,
Department of Health and family Welfare,
Fort St.George, Chennai-5.

2.The Para Medical Council of India,
Ch.No.157/41, Near Laxmi Nagar,
Metro Station Gate No-1,
Vikas Marg, Delhi-110092.

3.The Director of Medical and Rural Health Services,
DMS Complex, No:356-361,
Anna Salai, Chennai-600006.

4.The Registrar,
The Tamil Nadu Medical Council,
914, Poonamalle High Road,
Arumbakkam, Chennai.

5.The Joint Director of Medical and Rural Health Services,
(Competent authority under TNCERA, 1977),
O/o.Joint Director of Medical and Rural Health Services,
Government Head Quarters Hospital,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Ref. No. 407/ TNCEA/ 2019 dated 03.09.2020 passed by the 5th respondent and quash the same as illegal and consequently directing the 5th respondent to conduct inquiry and registered the petitioner's Clinic under Tamil Nadu Private Clinical Establishment Act, 1997.

For Petitioner : Mr.G.Kannan



For Respondents : Mrs.Srimathy,
Special Govt. Pleader for R1 to R3 & R5
Mr.C.Karthik for R4

ORDER

Heard the learned counsel on either side.

2.The writ petitioner/K.Thangavelu is aged 57 years. He had obtained a Diploma certificate in Community Medical Services in the year 2005. The certificate was issued by the Indian Council of Medico Technicals & Health Care. On the strength this certificate, the petitioner has set up an establishment and wanted the respondents to recognize the same as a Clinical Establishment within the meaning of Tamil Nadu Private Clinical Establishments (Regulation) Act, 1997. The application submitted by the petitioner was rejected by the fifth respondent vide order dated 03.09.2020. Questioning the same, this writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. In particular, he placed reliance on the order dated 14.02.2003 passed by the Hon'ble Supreme Court in Civil Appeal No.152 of 1994 (Subhasis Bakshi & Others Vs. West Bengal Medical Council & Others). The learned counsel for the petitioner took me through the contents of the said decision. No doubt, the said decision apparently appears to favour the writ petitioner herein. But then, the said decision was not rendered in the context of Tamil Nadu Private Clinical Establishments (Regulation) Act, 1997. As rightly pointed by the learned standing counsel appearing for the fourth respondent, a Clinical Establishment can only mean a Clinical Establishment under any recognized systems of medicine. I requested the learned standing counsel for the Tamil Nadu Medical Council to explain the expression "any recognized systems of medicine". The learned standing counsel took me through the rules framed under the statute. Rule 2(1)(i) of Tamil Nadu Clinical Establishments (Regulation) Act, 2018 defines Doctor as a registered Medical Practitioner offering consultations or treatment under Allopathy or AYUSH. Registered Medical Practitioners is defined as a person who possesses any of the Government recognised medical qualification and who has been enrolled in the register of the respective Council viz., Medical, Dental, Siddha, Ayurveda, Unani or Homeopathic Councils or the Board or any other statutory body recognised by the Government of Tamil Nadu.

4.Only if the petitioner falls within the aforesaid statutory definitions, he can apply for recognizing his establishment as a Clinical Establishment. The petitioner has not acquired qualification in any of the aforesaid systems of medicine. Therefore, the fifth respondent was justified in rejecting the petitioner's request. No interference is called for in the impugned



order. The writ petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

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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 Principal Secretary,
Department of Health and family Welfare,
Fort St George, Chennai-5.
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(Competent authority under TNCERA, 1977),
O/o.Joint Director of Medical and Rural Health Services,
Government Head Quarters Hospital,Karur District.

+1 CC to M/s.GP (SR-1818[F] dated 22/01/2021)

+1 CC to M/s.L.GEORGE PAUL ANTO, Advocate (SR-1590[F] dated 21/01/2021)

W.P (MD) No.14625 of 2020

20.01.2021

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