

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.16769 OF 2010

AND

M.P.NO.1 OF 2010

P.Amuthaveni R.I.M.P., P.M.P.,

... Petitioner

.Vs.

1. The Union of India,
Rep. by its Secretary to Government of India,
Ministry of Health and Family Welfare Department,
New Delhi.
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,
State of Tamil Nadu,
Mylapore, Chennai - 4.
4. The Medical Council of India,
Rep. by its Secretary,
Pocket - 14, Sector - 8,
Dwaraka Phase - 1,
New Delhi - 110 077.

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from taking penal action against this petitioner under the provisions of Medical Council Act, 1956 and Drugs and Cosmetics Act 1940 and direct the 2nd respondent to regularize the service of this petitioner as a Private medical Practitioner.

For Petitioner : Mr.K.Rajendra Prasad

For Respondents : Mr.T.K.Saravanan
Government Advocate
For R 2 & R 3

Mrs.Shubharanjani Ananth
Standing Counsel for NMC
For R 4

ORDER

This writ petition has been filed for the issue of a writ of mandamus forbearing the respondents for taking penal action against the petitioner and to recognize the petitioner as a Private Medical Practitioner.

2. Heard Mr.K.Rajendra Prasad, learned counsel for the petitioner, Mr.T.K.Saravanan, learned Government Advocate for R2 & R3 and Mrs.Shubharanjani Ananth, learned Standing Counsel for R4

3. A careful reading of the affidavit filed by the petitioner shows that the petitioner does not possess any qualification to practice in the field of medicine. The petitioner claims to be a member of the Private Medical Practitioners of India. The learned Special Government Pleader brought to the notice of this Court the Division Bench judgment in All India Association of Private Medical Practitioners .v. State of Tamil Nadu reported in 2002 4 CTC 577 and submitted that unqualified persons cannot be permitted to practice medicine and he specifically relied upon para 10 to 12 of the judgment.

4. On carefully going through the judgment of the Division Bench, it is seen that the Division Bench has deprecated the practice of permitting persons without qualification in the field of medicine and held that the so called guidelines for the Private Medical Practitioners does not have the force of law and it cannot run contrary to the provisions of the Statute.

5. In view of the above, this Court does not find any merits in this writ petition and accordingly, the same is hereby

dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Union of India,
The Secretary to Government of India,
Ministry of Health and Family Welfare Department,
New Delhi.
2. The State of Tamil Nadu,
The Commissioner and Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
3. The Director General of Police,
The State of Tamil Nadu,
Mylapore, Chennai - 4.
4. The Secretary,
The Medical Council of India,
Pocket - 14, Sector - 8
Dwaraka Phase-1,
New Delhi - 110 077.

+1cc to Mrs.Shubharanjani Ananth, Advocate, S.R.No.39488

+1cc to the Government Pleader, S.R.No.39858

W.P.NO.16769 OF 2010

SKM(CO)
PBS/12/07/2022