



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.NO.905 OF 2022 &

CMP.NO.5999 OF 2022

R.Devaraj

.. Appellant

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 - 600 106.
5. The Sub-Inspector of Police
Appakudal Police Station
Kavunthapadi Road
Appakudal, Bhavani Taluk
Erode District.

.. Respondents



Prayer:

APPEAL under Clause 15 of the Letters Patent against the order dated 27.1.2022 in W.P.No.39413 of 2015.

Prayer in W.P.No.39413 of 2015:

Writ petition filed under Article 226 of the constitution of India for issuance of a Writ of mandamus, forbearing the Director General of Police Kamarajar Road Chepauk Chennai 5 the 3rd respondent herein from initiating any police action by labelling the petitioner as unqualified as he is a Registered Indian Medical Practitioner and thus ensure the safety of his profession in the field of Indian System of Medicine in Ayurvedha.

For Appellant : Mr.Ashokkumar.D

For the Respondents : Mr.P.Muthukumar,
State Government Pleader
For Respondents 1 to 5

JUDGMENT

(Judgment was delivered by
the Hon'ble Chief Justice)

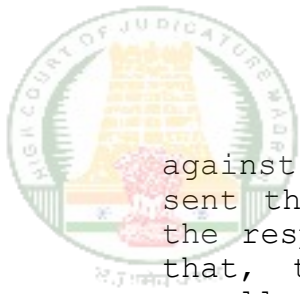
We have heard the learned counsel appearing on either side.

2. By this writ appeal, a challenge has been made to the order dated 27.1.2022 passed by the learned Single Judge in W.P.No. 39413 of 2015.

3. The writ petition was filed seeking a direction to forbear the 3rd respondent herein from initiating any police action by labelling the appellant as unqualified, as he is a Registered Indian Medical Practitioner and to ensure the safety of his profession in the field of Indian System of Medicine in Ayurvedha.

4. The learned Single Judge considered the issue with reference to the claim made by the appellant and taking note of the allegations made against him, the writ petition was dismissed by the order under challenge.

5. The learned counsel for the appellant submits that a first information report was lodged alleging that a fraudulent document was produced by the appellant to practice in the field of medicine. In the investigation, nothing was forthcoming



against the appellant. The learned Single Judge ought to have sent the matter for enquiry if any such allegation was made by the respondents against the appellant. However, instead of doing that, the writ petition came to be dismissed debarring the appellant from practising in the Indian System of Medicine in Ayurvedha, ignoring the fact that the appellant has been practicing for more than 30 years and the practice should not go waste in the manner it has been taken away by the respondents. A prayer is made by the learned counsel for the appellant to set aside the order passed by the learned Single Judge.

6. We have carefully considered the submissions made by the learned counsel for the appellant and perused the records.

7. The writ petition was filed apprehending an action by the third respondent herein alleging that the appellant is unqualified to practice in the field of Indian System of Medicine in Ayurvedha. A first information report was lodged with regard to the certificate produced by the appellant. It would show that it was not registered with the Tamil Nadu Board of Indian Medicine. The issue is pending consideration and otherwise a writ petition could not have been maintained to forbear the third respondent from initiating action despite registration of the first information report.

8. The facts further reveal, as per the counter filed by the fourth respondent in the writ petition and accepted by the learned Single Judge, that the registration certificate produced by the appellant was found to be forged and therefore, the appellant was not entitled to practice because a person, who is not possessing the required qualification, cannot be allowed to administer medicine to patients, as it would have serious repercussions.

9. The factual issue as to whether the certificate was bogus or not could not have been examined by the Writ Court. In any case, the prayer in the writ petition cannot be granted pending first information report for investigation. The appellant is entitled to avail the remedy as provided under the Criminal Procedure Code for proper investigation into the matter. There is nothing on record to show that the third respondent herein or any of the respondents issued an order restraining the appellant from practicing. However, the facts, as taken into consideration by the learned Single Judge, show that the appellant cannot be allowed to practice till the conclusion of the first information report. The learned Single Judge otherwise found that the Police Authorities are entitled to initiate action as permissible under law with reference to the allegation of production of bogus certificate and against persons, who are practicing without holding valid qualification and registration certificate.



10. Finding no error in the order passed by the learned Single Judge, the writ appeal is dismissed. Consequently, the connected CMP is also dismissed. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

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
Chepauk
Chennai- 600 005.
4. The Registrar
Tamil Nadu Board of Indian Medicine
Arignar Anna Government Hospital of
Indian Medicine Campus
Arumbakkam, Chennai - 600 106.
5. The Sub-Inspector of Police
Appakudal Police Station
Kavunthapadi Road
Appakudal, Bhavani Taluk
Erode District.

+1cc to the Government Pleader, S.R.No.23671

W.A.No.905 of 2022 &
CMP.No.5999 of 2022

PA (CO)
PM/13/04/2022