

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14751 of 2020
and W.M.P.Nos.18336 and 18337 of 2020

Bose K.Mohamed Meera

... Petitioner

Vs.

1.Union of India,
rep.by its Secretary,
Ministry of Health and Family Welfare,
Near Udyog Bhawan Metro Station,
Maulana Azad Road, New Delhi 110011.

2.The State of Tamil Nadu,
rep.by its Secretary,
Health Department,
Fort St.George,
Chennai 600 009.

3.The Director of Indian Medicine and
Homeopathy,
Anna Arch Road, P.P.Garden,
Arumbakkam, Chennai 600 106.

4.The Director of Medical and
Rural Health Services,
DMS Campus,
Teynampet, Chennai 600 006.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the circular dated 25.09.2020 of the third respondent bearing Na.ka.No.4047/A3/2019 and quash the same insofar as the reference to acupuncture therapy contained therein is concerned.

For Petitioner : Mr.B.Murugavel

For R1 : Mr.V.Ashokkumar, CGSC

For R2 to R4 : Mrs.C.Sangamithirai
Special Government Pleader

ORDER

This petition is filed for issuance of Writ of Certiorari calling for the records pertaining to the circular dated 25.09.2020 of the third respondent bearing Na.ka.No.4047/A3/2019 and quash the same insofar as the reference to acupuncture therapy contained therein is concerned.

2. The case of the petitioner is that the petitioner is practicing as an Acupuncturist at Chennai and other places in Tami Nadu for the past more than 20 years and he has obtained post graduation in Acupuncture Therapy from the University of Karnataka and also a President, Accupuncture Healers Federation (India) and the said Association has been duly registered under the Societies Registration Act and has been working for the propagation of Acupuncture as an effective and alternative mode of medical remedy. While being so, the Government of India, Ministry of Health and Family Welfare, by its order dated 25.11.2003, recognized Acupuncture as a mode of therapy and allowed the same to be practiced by registered practitioners or appropriately trained persons and the said fact was reiterated by the Madurai Bench of Madras High Court in W.P.No.6319 of 2010, W.P.No.10311 of 2016 and also by various High Courts. In furtherance of the same and also in furtherance of a subsequent order of the first respondent dated 05.05.2010, several leading Universities including in and around Tamil Nadu have been offering Diploma Course in Acupuncture Therapy for the past 10 years and have been duly issuing certificates to such persons, who have been successfully completing such courses. While being so, by circular dated 25.09.2020, the 3rd respondent has instructed the formation of the District Level Committees to examine and identify quacks in their respective districts and lodge complaints against them to the police authorities as well as the District Administrations throughout Tamil Nadu and in the said Circular it was further indicated that the persons practicing methods of therapies including acupuncture quacks are also liable to be identified and proceeded against. The petitioner having greatly aggrieved by the damaging circular issued by the 3rd respondent Committee, wherein the entire lot of acupuncturists have been painted as quacks, filed the present Writ Petition.

3. The learned counsel appearing for the petitioner further submitted that the reference to Acupuncturists as quacks in the impugned circular of the 3rd respondent exposes genuine acupuncture therapy practitioners to harassment by the police authorities as well as the District Administrations, who would proceed against such genuine practitioners on the strength of the sweeping observations in the impugned circular issued by the 3rd respondent, and such vague observations will result in grave

confusion in the minds of the general public, who will be discouraged to take the services of a genuine Acupuncturist and further the petitioner is a duly qualified practitioner and his right to practice Acupuncture Therapy cannot be curtailed in an arbitrary manner as done by the 3rd respondent vide the impugned circular dated 25.09.2020. Hence prays for quashment of the impugned order.

4. The learned Standing Counsel appearing for the respondents submitted that based on the recommendations of the Standing Committee of Experts on alternate system of medicine, constituted by the Ministry of Health and Family Welfare in August 1999, the Government had accepted Acupuncture as a Mode of Therapy and not as a system of Medicine. Further the impugned order advised the States / Union Territories to ensure that institutions under them did not grant any degree /diploma in the stream of medicine which had not been recommended for recognition and therefore, qualified acupuncture for the treatment of pain, after obtaining the required certificate for course in acupuncture from the recognized institutions may practice the said mode and hence the impugned order does not warrants interference of this Court and prays for dismissal of this petition.

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

6. Though the petitioner undergone the Acupuncture course in various Universities, the 1st respondent has not recognised the petitioner's Universities and therefore, the qualification obtained by him may not be recognised to give treatment to the patients. Further the Committee has recommended that certain practices as Acupuncture and Hypnotherapy which qualified as mode of therapy, could be allowed to be practised by registered practitioners or appropriately trained personnel and further suggested that all those systems of medicine not recognized as separate systems and should not be allowed to continue as full time bachelor and Master's degree courses and the term ''Doctor'' should be used only by practitioners of systems of Medicine recognized by the Government of India. Even as per order dated 21.02.2019, it was stated about the recognition of Acupuncture as a system of Healthcare/Therapy, wherein in paragraph no.4 the terms of reference for the apex committee on Acupuncture is to frame detailed guidelines for promotion and regulation of acupuncture as a system of Healthcare/Therapy, to suggest steps for implementation of the guidelines so framed as well as for reimbursement for acupuncture, to suggest appropriate authority / Department for implementation of the guidelines and to submit its final report to the Government within a period of three months from the date of the first

meeting of the Committee. Therefore, unless the Government of India recognizes the petitioner's acupuncture therapy, the petitioner is not entitled to treat the patients. Further the law enforcing agency / 3rd respondent has issued the guidelines / circulars to prevent illegal practitioners in the name of Acupuncture therapist and therefore, the said impugned order is reasonable one and in order to prevent the illegal method of providing treatment to the general public, the respondent has taken steps to prevent the illegal system of practice, which cannot be interfered with.

7. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

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Union of India,
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Teynampet, Chennai 600 006.

+1cc to Mr.Mohan, Advocate, S.R.No.945

W.P.No.14751 of 2020

MG(CO)
SB(10/02/2022)