

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.43830 of 2016
and
W.M.P.No.37656 of 2016

K.P.Sivadass Menon

... Petitioner

Vs

1.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 Deputy Director of Health Services,
268, Race Course Scheme Road,
Race Course, Gopalapuram,
Coimbatore - 641 018.

4.The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai - 600 004.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 2nd respondent to regularize the practice of this petitioner as a Private Medical Practitioner under the Para medical service as per the instructions of Government of India vide letter No.4-6/78 MPT dated 24.11.1972.

For Petitioner : Mr.C.Yokesh

For Respondents

R1 : Mr.T.V.Krishnamachari
Senior Panel Counsel for Central Govt.

R2 to R4 : Mrs.N.Senthil Selvi
Government Advocate

O R D E R

The relief sought for in the present writ petition is to direct the 2nd respondent to regularize the practice of the petitioner as a Private Medical Practitioner under the Para medical service as per the instructions of Government of India on 24.11.1972.

2.The petitioner states that he is practicing modern allopathic system of medicine for more than 14 years on the basis of practical experience. The petitioner further states that he is qualified from the Indian Board of Medicine, Siddha, Unani and Naturopathy, etc. Based on the experience, he claims that he is eligible to practice modern allopathic practice, especially in rural areas.

3.This Court is of the considered opinion that for medical practice, registration becomes mandatory under the provisions of the Act. The medical practice has now been regulated and without possessing the medical qualification, no person shall be allowed to practice medicine. However, the Government issued a letter dated 15.06.2010 addressing to the Director General of Police not to initiate action against the qualified medicine Doctors. As per the Government letter, practice of registered practitioners of Siddha, Ayurveda, Unani and Naturopathy, who are registered under the Tamil Nadu Siddha Medical Council and Tamil Nadu Board of Indian Medicine alone is entitled to continue the practice. The letter further states that if any of these ISM Doctors are exclusively doing practice in Allopathy medicine, the names of the Doctors may be intimated to the Council and the Government for taking action against them under the Tamil Nadu Siddha System of Medicine [Development and Registration of Practitioners] Act, 1997 and Tamil Nadu Board of Indian Medicine Rules. Therefore, it is clear that only the registered practitioners are eligible to practice Siddha, Ayurveda, Unani and Naturopathy. However, such registered practitioners who are not possessing medical qualifications are not entitled to practice modern allopathic practice. Thus, it is made clear that Allopathic medical practice is prohibited in respect of the persons who all are not possessing medical qualifications. Even

for practicing Siddha, Ayurveda, Unani and Naturopathy, registration is required and under these circumstances, the claim of the petitioner that he is practicing modern allopathic system of medicine on the basis of practical experience can never be allowed at all. Thus, the petitioner is not entitled to continue his practice of modern allopathic system of medicine and for practicing Siddha, Unani and Naturopathy, the petitioner has to register his name with the Council.

4.This being the principles to be followed, the petitioner is not qualified to practice modern allopathic medicine and accordingly, the relief as such sought for to regularize the practice of the petitioner as a private medical practitioner in general cannot be granted by this Court.

5.Consequently, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

- 1.The Secretary to Government of India,
Union of India,
Ministry of Health and Family
Welfare Department,
New Delhi.
- 2.The Commissioner and
Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.
- 3.The Deputy Director of Health Services,
268, Race Course Scheme Road,
Race Course, Gopalapuram,
Coimbatore - 641 018.

4.The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai - 600 004.

+1cc to Mr.T.V.Krishnamachari, Advocate Sr.3262
+1cc to the Government pleader Sr.3701

W.P.No.43830 of 2016

pch[col
srg 04/02/2022