



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

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CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.34842 OF 2019

AND

W.M.P.NO.35601 OF 2019

P.Devasagayam

... Petitioner

.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, Mylapore,
Chennai - 600 004.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing respondents 1 and 2 to appoint a Council for the purposes of regulating Traditional Medical Practice at the earliest and consequently forbear the 3rd respondent from taking any action against the petitioner and the Members of the petitioner association pertaining to their practice in the field of Traditional Medical Practice, at No.3, Ethen Thottam, Kumaran Nagar - II, Pollachi - 624 001, Tamil Nadu claiming that they are unqualified and for other relief.



For Petitioner : No Appearance

For Respondents : Mr.Vadivelu Deenadayalan
Additional Government Pleader

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O R D E R

Petitioner is called absent. However, Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the respondents is armed with instructions from the Directorate of Indian Medicine and Homoeopathy, Chennai.

2. The petitioner claims to be a medical practitioner practicing in the field of Siddha. Being a practitioner of traditional medicine, he seeks a mandamus directing the first and second respondents, i.e., the State, specifically the Health and Family Welfare Department to appoint a Council for the purpose of regulating traditional medical practice in the State of Tamil Nadu.

3. This is the first limb of the prayer. Though this limb is well founded, insofar as it would be in the interests of the Society and the citizenry in general that there were some regulations and rules governing the practice of traditional medicine, there is a Board of Indian Medicine functioning from 1983 which enables registration of qualified practitioners of Indian system of medicine, such as, Siddha, Ayurveda and Unani. The registration of qualified practitioners of Naturopathy and Yoga had commenced in 1995 as per the relevant Government Orders.

4. That apart, the Tamil Nadu Siddha Medical Council was formed in terms of G.O.Ms.No.70, Health and Family Welfare Department and this statutory body enables registration of qualified Siddha practitioners from 1998. The respondents take exception to the request of the petitioner seeking registration of hereditary practitioners of traditional medicine on the basis that the affidavit filed in support of the Writ Petition do not reveal any recognized educational qualifications acquired by the petitioner. In such circumstances, an empty claim by the petitioner that he is a 'hereditary' 'traditional' practitioner, is unacceptable. On this aspect, I agree.



5. As regards the second limb of the petitioner's prayer which seeks a direction forbearing the third respondent from preventing the practice of traditional medicine by the petitioner and his associates, such prayer is not liable to be granted. As noticed earlier, the affidavit filed is bereft of any particulars in support of the petitioner's claim of traditional knowledge of Medicine. Relevantly, the erstwhile Indian Medicine Central Council Act, 1970, since repealed, and the present National Commission for Indian System of Medicine Act, 2020, contain no provision therein enabling the registration of hereditary practitioners of traditional medicine under the Schedule thereunder.

6. Evidently, this Regulation has been brought in to streamline the practice of medicine and to ensure that even those who claim to be practicing traditional medicine have undergone the relevant courses conducted by recognized Universities and Institutions, prior to commencement of such practice.

7. Thus, while this would answer the prayer of the petitioner, such that the first limb is found to have been satisfied by the State by constituting various Boards and enactments, as seen in the narration above, the request of the petitioner stands rejected.

8. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
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.

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3. The Director General of Police,
Kamarajar Road, Mylapore,
Chennai - 600 004.

+1cc to the Government Pleader, S.R.No.16674

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BP (CO)
PBS/21/04/2022