

29.08.2023

Item No.2

Ct. No.1

PG/KS

W.P.A.(P) 324 of 2023

Debabrata Chakraborti @ Debabrata Chakraborty

Versus

The State of West Bengal & Ors.

Mr. Meghnad Dutta
Sk. Mustafi Rahaman

.....for the Petitioner

Mr. Debraj Bhattacharya
Mr. Subhrojyoti Bhowmick

.....for the respondent nos.5 & 6

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. Dipanwita Ganguly
Mr. Kaustav Bhattacharya
Mr. S. Chakraborty

.....for the respondent no.9

1. This writ petition has been filed as a public interest litigation alleging that the 9th respondent has misrepresented himself to be a Homoeopathic Doctor and is carrying out practice without a valid degree, performing surgeries, issuing death certificates etc. and it is also alleged that on account of wrong treatment administered by the 9th respondent, several people in the locality have died.
2. The writ petitioner sought information from the Council of Homoeopathic Medicine as to the correctness of the registration number of the 9th respondent being, 1310 B.H.S.M.(N) as mentioned in a death certificate dated 28th January, 2013. The

Council of Homoeopathic Medicine has sent a reply on 7th May, 2015 stating that the 9th respondent is not a registered practitioner under the Council of Homoeopathic Medicine, West Bengal. Further the petitioner would state that the registration No.1310 in the file of the Council of Homoeopathic Medicine, West Bengal stands in the name of Dr. Daya Shankar Choubey, who is stated to be no more. Therefore, the petitioner would state immediate action should be initiated against the 9th respondent.

3. The learned advocate appearing for the Council of Homoeopathic Medicine, West Bengal, the 6th respondent submitted that a person holding a valid Homoeopathy degree cannot practice Homoeopathy system of Medicine unless and until he is registered on the roll of the Council of Homoeopathic Medicine, West Bengal. Further, it is submitted that no specific complaint has been received by the Council of Homoeopathic Medicine, West Bengal with regard to the 9th respondent.
4. The learned advocate appearing for the 9th respondent would submit that the allegation made in the writ petition is absolutely false. The 9th respondent holds a degree issued from the State of Nagaland by which the 9th respondent is entitled to practice Unani System of Medicine and he is registered with the Council of Unani Medicine in West Bengal.

5. Further, the learned advocate appearing for the 9th respondent submitted that the 9th respondent is not performing surgeries as he is not authorized by the Council of Unani Medicine to conduct any surgery and all the allegations made by the writ petitioner are absolutely false and any authority can verify the credentials of the 9th respondent.
6. After elaborately hearing the learned advocates for the parties, the Court is first concerned about the health and safety of the public of the locality, who will approach the 9th respondent for treatment. If the 9th respondent is stated to hold a degree issued by the State of Nagaland, the question would be as to whether such a degree is recognized in the State of West Bengal and whether the 9th respondent has been granted the necessary approval to practise Unani System of Medicine. Assuming that the 9th respondent has been registered in the Council of Unani Medicine, West Bengal, the next question would be as to whether the line of practice adopted by the 9th respondent is strictly restricted to use of Unani Medicine and whether the 9th respondent is prescribing any Allopathic medicine or adopting any other system of medicine. These aspects have to be verified by the concerned authority of the Government and this needs to be done on a priority basis since on verification, if it is found that the 9th respondent is not entitled to practise any system of

medicine, then immediate action is required to be taken by the authority.

7. In the light of the above, we would direct the 3rd respondent/the Principal Secretary, Department of Health and Family Welfare, Government of West Bengal to immediately nominate one of his senior officers in Hooghly district to conduct an enquiry into the affairs of the 9th respondent, examine all aspects and call for the necessary particulars from the Council of Unani Medicine and thereafter proceed to take a decision on merits and in accordance with law.
8. The 9th respondent shall be issued notice by the concerned authority of the Department of Health and Family Welfare, Hooghly and the matter shall be proceeded in an expeditious manner and concluded preferably within a period of four weeks from the date of receipt of server copy of this order.
9. The learned advocate appearing for the 9th respondent submitted that this public interest writ petition lacks *bona fide* as the writ petitioner is none other than the brother of the 9th respondent and having been unsuccessful in a civil litigation filed by the writ petitioner against the 9th respondent, this writ petition has been filed with certain ulterior motives.
10. In the writ petition, the writ petitioner has not disclosed that the 9th respondent is his brother nor there is any disclosure about the civil litigation between the petitioner and the 9th respondent.

Therefore, we find that the petition is not a *bona fide* public interest litigation. However, we have issued the above direction taking into consideration the health and the welfare of the general public, who should not be mislead and cheated and be treated by a person, who does not possess the requisite qualification. However, taking note of the fact that the petitioner did not disclose the two vital factors namely he is the brother of the 9th respondent and that there is a civil litigation pending, though we have disposed of the writ petition issuing directions, deprecating the conduct of the petitioner, we impose cost of Rs.10,000/- (Rupees Ten Thousand) on the petitioner payable to the State Legal Services Authority, West Bengal within a period of two weeks from date.

11. With the above directions, the writ petition is disposed of.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)