



W.P.No.18335 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.18335 of 2009

and

M.P.No.1 of 2009

P.Sivakumar

...Petitioner

-Vs-

1. Union of India,
Rep. by its Secretary to Govt.,
Ministry of Health and Family Welfare
Department of Health,
New Delhi.
2. The State of Tamil Nadu
Rep. by its Secretary to State,
Health and Family Welfare Department
Fort St. George, Chennai-9.
3. The Director General of Police,
Kamaraj Salai, Chennai-4.
4. The Superintendent of Police,
Erode, Erode District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondent 1 and 2 to regularize the Medicinal Practice of the petitioner by enlisting and



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recognizing the unqualified Medical Practitioners in Modern Medicine (Allopathy System) and further forbear the respondents and their officials from enforcing the penal provisions of the Indian Medical Council Act, 1956 and the Drugs and Cosmetics Act, 1940, as against the petitioner in particular as an unqualified Medical Practitioner in the State of Tamil Nadu.

For Petitioner : Ms.E.Sherlline Ranjitham for
Mr.J.Ashok

For Respondents :
(for R1) : Mr.M.Aravind Kumar, CGSC
(for R2 to R4) : Mr.Abishek Murthy

ORDER

The relief sought in the present writ petition is to direct the respondent 1 and 2 to regularize the Medicinal Practice of the petitioner by enlisting and recognizing the unqualified Medical Practitioners in Modern Medicine (Allopathy System) and further forbear the respondents and their officials from enforcing the penal provisions of the Indian Medical Council Act, 1956 and the Drugs and Cosmetics Act, 1940, as against the petitioner in particular as an unqualified Medical Practitioner in the State of Tamil Nadu.



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2.Unqualified medical practitioners are not entitled to practice medicine in accordance with the provisions of the Act. Thus, the negative relief as such sought in the present writ petition deserves no merit consideration. In the event of violation of the provisions of the Indian Medical Councils Act, 1956, and the Drugs and Cosmetic Act, 1940, the authorities competent are bound to initiate action. Therefore, qualified medical practitioners, who have got their names registered in the Medical Council of India and the State Medical Council are alone entitled to practice medicine.

3.Therefore, the relief as such sought to forbear the respondents from enforcing penal provisions of the Act cannot be granted. Accordingly, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

24.03.2023



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S.M.SUBRAMANIAM. J.,

(sha)

To

1. Union of India,
Rep. by its Secretary to Govt.,
Ministry of Health and Family Welfare
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New Delhi.
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