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W.P.Nos.11096, 11100, 11103, 11109 & 11112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.11096, 11100, 11103, 11109 & 11112 of 2023

and

W.M.P.Nos.10958, 10964, 10965, 10967 & 10969 of 2023

W.P.No.11096 of 2023:

A.Aruldoss

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Office of the District Collector,
Ranipet District, Ranipet.
3. The Director,
Directorate of Medical Services,
DMS Compound, Teynampet,
Chennai - 600 018.
4. The Joint Director,
Government Headquarters Hospital,
Ranipet, Ranipet District.



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5. The Inspector of Police,
Panapakkam, Ranipet District

...Respondents

Prayer in W.P.No.11096 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's practice in the field of Community Medical Service and Essential Drugs run in the name and style of Daisy Clinic / Dispensary / Consultation Room functioning at No.15, Thirumalpur Road Junction, Panapakkam Village and Post, Nemili Taluk, Ranipet District Pincode-631 052 in any manner either by themselves, their workmen, agents, representatives and assigns

W.P.No.11100 of 2023:

A.Senguttuvan

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Tiruchirappalli District, Trichy.
3. The Director,
Directorate of Medical Services,
DMS Compound, Teynampet,
Chennai - 600 018.
4. The Joint Director,
Government Headquarters Hospital,
Trichirappalli District, Tirchy.



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5. The Inspector of Police,
Amur Police Station,
Tiruchirappalli District

...Respondents

Prayer in W.P.No.11100 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's practice in the field of Community Medical Service and Essential Drugs run in the name and style of Guru Clinic Dispensary / Consultation Room functioning at No.3/49 , Pallar street, Manapalayam village, Kodunthurai Majara, Musiri taluk, Trichirapalli District, Pincode-621 204, in any manner either by themselves, their workmen, agents, representatives and assigns.

W.P.No.11103 of 2023:

Nadarajah.P

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Thiruchirappalli District, Thiruchirappalli.
3. The Director,
Directorate of Medical Services,
DMS Compound, Teynampet,
Chennai - 600 018.
4. The Joint Director,
Government Headquarters Hospital,



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Thiruchirappalli District.

5. The Inspector of Police,
Police Station,
Thiruchirappalli District

...Respondents

Prayer in W.P.No.11103 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's practice in the field of Community Health and Medical Service run in the name and style of Jegathaa Clinic, functioning at 1/300-2, Sannathi street, Thiruvellarai , Manachanallur taluk, Thiruvchirappalli District-621 009 in any manner either by themselves, their workmen, agents, representatives and assigns.

W.P.No.11109 of 2023:

M.Purushothaman

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Namakkal District, Namakkal.
3. The Director,
Directorate of Medical Services,
DMS Compound, Teynampet,
Chennai - 600 018.
4. The Joint Director,

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Government Headquarters Hospital,
Namakkal District.

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5. The Inspector of Police,
Belkurichi Police Station,
Senthamangalam Taluk, Namakkal District. ...Respondents

Prayer in W.P.No.11109 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's practice in the field of Community Health and Medical Science run in the name and style of Muthu Clinic Centre/Dispensary/Consultation Room Functioning at 2/131, Post office street, Belukkurichi, Senthamangalam taluk, Namakkal District Tamilnadu-637 402 in any manner either by themselves, their workmen, agents, representatives and assigns.

W.P.No.11112 of 2023:

M.Paramasivan

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Tiruvallur District, Tiruvallur.
3. The Director,
Directorate of Medical Services,
DMS Compound, Teynampet,



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Chennai - 600 018.

4. The Joint Director,
Government Headquarters Hospital,
Tiruvallur District, Tiruvallur.

5. The Inspector of Police,
Tiruvallur Town Police Station,
Tiruvallur, Tiruvallur District.

...Respondents

Prayer in W.P.No.11112 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's practice in the field of Community Medical service and Essential Drugs in the name and style of Gnanam Clinic/Dispensary/Consultation at No.13, Bharathi street, N.G.O. Nagar Extension, Ponneri Village, Ponneri taluk, Tiruvallur District-601 204 in any manner either by themselves, their workmen, agents, representatives and assigns.

In all W.P's.:

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.U.Bharanidharan, AGP

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioners have filed these writ petitions seeking to forbear the respondents from interfering with their practice in the field of

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Community Medical Service and Essential Drugs.

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3. The case of the petitioners is that the petitioners have completed Diploma in Community Medical Service and Essential Drugs which is a two years Course and are entitled to run Primary Health Care Clinic in rural areas. The petitioners never pose themselves as Doctors and are practising only in the field of Community Medical Service and Essential Drugs and there is no impediment whatsoever in carrying out such practice, however, the respondents are interfering with the petitioners' practice. Hence, these Writ petitions.

4. The learned counsel appearing for the petitioners submitted that the petitioners have completed Diploma in Community Medical Service and Essential Drugs and are entitled to run Primary Health Care Clinic in rural areas. Hence, the frequent interference made by the respondents is not sustainable one.

5. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that, if the petitioners are entitled to run a



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clinic, they have to make application under the Tamil Nadu Clinical Establishments (Regulation) Act, 1997 and obtain permission for establishing a clinic. In the absence of any permission, the petitioners are not entitled to run a clinic either in the rural areas or anywhere in Tamil Nadu. He further submitted that, as per Rule 2 (o) of the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018, Registered Medical Practitioner means a person who possess any of the Government recognised medical qualification and who has been enrolled in the register of the respective Council viz., Medical, Dental, Siddha, Ayurveda, Unani or Homeopathic Councils or the Board of Indian Medicine or any such Council, Board or any other statutory body recognised by the Government of Tamil Nadu and as per Rule 2 (i) of the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018 Doctor means and includes a Registered Medical Practitioner offering consultations or treatment under Allopathy or AYUSH.

6. Learned Additional Government Pleader appearing for the respondents further submitted that, unless the Medical Council of India or the AYUSH Department approve the qualification of the petitioners, they



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are not entitled to practice and run a clinic. He further submitted that, when similar issue came up before the Madurai Bench of this Court in W.P.(MD) No.20217 of 2019 etc., batch of cases, this Court categorically observed that 'in respect of their claim of obtaining Diploma in Electro Homeopathy, are issued by some private institutions without affiliation to anyone of the statutory bodies/universities recognized by the Acts of the Parliament. Having obtained diplomas from such institutions, the petitioners are estopped from claiming any right either to register themselves in the roles of the statutory council or practice in that particular stream of medicine.' Hence, he prayed for dismissal of these Writ petitions.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. Before deciding the issue, it is useful to extract hereunder the relevant provisions of the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018:

“2. Definitions. -

(i) "Doctor" means and includes a Registered Medical Practitioner offering



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consultations or treatment under Allopathy or AYUSH;

(o) "Registered Medical Practitioner" means a person who possess any of the Government recognised medical qualification and who has been enrolled in the register of the respective Council viz., Medical, Dental, Siddha, Ayurveda, Unani or Homeopathic Councils or the Board of Indian Medicine or any such Council, Board or any other statutory body recognised by the Government of Tamil Nadu;"

9. It is also useful to extract hereunder the relevant portion of the order of the Madurai Bench of this Court made in W.P.Nos.20217 of 2019 etc. batch dated 25.02.2020:

“20.As stated above, most of the certificates produced by the petitioners in the typed set of papers, in respect of their claim of obtaining Diploma in Electro Homeopathy, are issued by some private institutions without affiliation to anyone of the statutory bodies / universities recognized by the Acts of the Parliament. The petitioners, who claimed to have undergone a diploma course in the so-called alternative stream of medicine, without even verifying the genuineness of the statutory recognition, status of the institute joined the course, throws serious doubt about the genuineness in their very claim. Having obtained diplomas from such institutes, the petitioners are estopped from claiming any right either to register themselves in the roles of the statutory council or practice in that particular



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stream of medicine.”

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10. The petitioners claim that they have completed Diploma in Community Medical Service and Essential Drugs and are entitled to run Primary Health Care Clinic in rural areas. However, the above said provisions makes it clear that Registered Medical Practitioner means a person who possess any of the Government recognised medical qualification and who has been enrolled in the register of the respective Council viz., Medical, Dental, Siddha, Ayurveda, Unani or Homeopathic Councils or the Board of Indian Medicine or any such Council, Board or any other statutory body recognised by the Government of Tamil Nadu and Doctor means and includes a Registered Medical Practitioner offering consultations or treatment under Allopathy or AYUSH. In the absence of any recommendation from the Medical Council of India or from the AYUSH Department the petitioners are not entitled to run a clinic anywhere in Tamil Nadu. Hence, the claim made in these Writ petitions cannot be entertained and the relief sought for in these petitions cannot be granted.

11. Accordingly, these Writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

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13. The District Collector,
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M.DHANDAPANI., J.

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