



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

A.Kalaimani

... Petitioner

Vs.

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

2.The Government of Tamil Nadu,
Rep. by its Secretary for Health and
Family Welfare Department,
St.George Fort, Chennai.

3.The Director General of Police,
Rajaji Salai, Chennai.

4.The Joint Director,
Rural and Medical Health Science,
Trichy District.

5.The District Collector,
Trichy, Trichy District.

6.The Registrar,
The Tamil University,
Thanjavur, Thanjavur District

... Respondents



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

(R6 is impleaded vide Court order dated 22.09.2020 in WMP(MD)No. 9948/2020 in WP(MD)No.4484/2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first and second respondents to consider the petitioner's representation dated 03.08.2019.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.R.Aujunarajan,
Senior Panel Counsel for R1

Mr.M.Ramesh,
Government Advocate
for R2 to R5

COMMON ORDER

The above writ petitions are filed for similar reliefs namely for a mandamus directing the first and second respondents to consider the petitioners' representation dated 03.08.2019.

2. The facts in brief are as follows:

2.1. The writ petitioner in WP(MD)No.4484/2020 has completed his Ayurvedic Degree Course and is a registered Medical Practitioner under the Council of Alternative Systems of Medicines, West Bengal. He



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

has also obtained a Certificate of Diploma in Siddha Medicine from the Tamil University, Thanjavur.

2.2. The writ petitioner in WP(MD)No.4487/2020 has obtained Certificate in Homeopathy Medicine from the Institute of Alternative Medicine, Nellikuppam and has also registered his practice under the Indian Board of Alternative Medicines.

2.3. The writ petitioner in WP(MD)No.4488/2020 has obtained Diploma in Acupuncture. He has completed his Ayurvedic Degree Course and has registered his practice under the Tamil Nadu Siddha Medical Council, Chennai. He has also obtained a Certificate of Diploma in Siddha Medicine from the Tamil University, Thanjavur.

2.4. The writ petitioner in WP(MD)No.4491/2020 has obtained a Certificate in Ayurvedha Medicine and is a registered Medical Practitioner under Tamil Nadu Board of Indian Medicine, Madras. He is having 27 years of experience in practice.



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

WEB COPY

2.5. The writ petitioner in WP(MD)No.4492/2020 is a registered Medical Practitioner under Indian Board of Alternative Medicines. He is having 30 years of experience in practice. He has also obtained a Certificate of Diploma in Siddha Medicine from the Tamil University, Thanjavur.

2.6. The writ petitioner in WP(MD)No.4493/2020 has obtained a Certificate of Diploma in Siddha Medicine from the Tamil University, Thanjavur.

2.7. The contention of the petitioners is that persons who have completed Diploma Course are entitled to practice Alternative Medicine System as a Medical Practitioner. The Central Government has also recognized this practice. The petitioners would submit that recently the first respondent had passed an order in which they had allowed the qualified Practitioner to practice Electro Homeopathy Medical System and other Alternative Medicine Practices, till the formation of Council, since the Union of India has not established any Council recognizing the



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

Diploma in Siddha Medicine in all over India and Tamil Nadu. The Division Bench of Delhi High Court on 18.11.1998, had given a Judgment stating that the third respondent can issue Diploma / Certificates and the holders of such Diploma are entitled to practice Electropathy / Electro Homeopathy. This was challenged in SLP.No. 11262/2000 by the Union of India before the Honourable Apex Court. The Apex Court dismissed the said SLP on 24.11.2000. On 05.05.2010, the first respondent had issued a Circular stating as follows:

"...In accordance with orders of the High Courts and Supreme Court quoted here, there is no proposal to stop the petitioner from practicing Electropathy in impairing education, as long as this is done within the provisions of the order No.R.1405/96-U and H(R)(Pt) Ltd., dated 26.01.2003. Once the legislation to recognize new systems of medicine is enacted, any practice or education would be regulated in accordance with the said Act. The representation of the petitioner dated 28.10.2009 is disposed of accordingly..."



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

WEB COPY

It is the contention of the petitioners that various High Courts of this Country have recognized the practice of Siddha Medicine. However, in the State of Tamil Nadu, the Police are interfering with their practice and the regular visits by the Policemen is causing apprehension in the minds of the patients, which in turn, is causing disturbance in the petitioners' right to carry on their profession. Therefore, in order to enjoy the benefits which have been given to the persons who have completed Diploma, the petitioners' have sent representation to the first and second respondents. However, there has been absolutely no response to their representations dated 03.08.2019. Therefore, the above writ petitions.

3. Heard the learned counsels on either side.

4. When the Country had gone into lockdown on account of Covid-19 Pandemic, the Government had been exploring the possibility of the alternative Medicines like Siddha, Ayurvedha, Unani, etc. Infact, the acronym of these forms of medical practice (AYUSH) is the name of the Ministry of the Government of India responsible for developing



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

WEB COPY

education, research and propagation of traditional medicine systems in India. The growing popularity of this form of Medicine appears to have propelled the Honourable Supreme Court to recognize Diploma issued for the Alternative Medicine Courses.

5. In an order dated 23.03.2023, in the case of *Vetriselvi and another vs. The Member Secretary and others in WP(MD)Nos.4882, 5503, 5721, 5918 and 6049/2023*, a learned Judge of this Court had discussed the Siddha System of Medicine as follows.

"13...Siddha system of medicine is unique to Tamil Nadu. It is part of Tamil Culture. Earlier, every temple in Tamil Nadu would have a functioning Siddha dispensary attached to it. I do not know if that is still the current position. I take judicial notice of the fact that the department of Siddha is undertaking researches. The role played by the Siddha doctors during Covid crisis cannot be lost sight of. The term "Kabasura Kudineer" is a part of our vocabulary. When Dengue struck



WEB COPY



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

us, the Government itself promoted Nilavembu Kashayam. The Government is running siddha medical colleges. They have been duly recognized. The syllabus and course content indicate that the endeavour is to keep the students abreast of the modern developments. During the recent past, to gain entry into medical course, one has to clear an eligibility test known as "NEET". It is stated that for pursuing any medical course namely, MBBS, BDS or Siddha, one has to pass "NEET". The expression "degree in medicine" would therefore include degree in Siddha medicine if issued by a recognised University.

14. Disqualifying a Siddha degree holder in the selection process is illegal. Any system of knowledge can be dynamic. Any system may be ancient or modern. The question is whether it is up to date and relevant to our requirements. It is in the hands of the practitioners to keep a system of knowledge alive. It is for the government of Tamil Nadu to ensure that Siddha system of medicine remains current."



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

WEB COPY

6. I concur with the observations made by the learned Judge in the above batch of writ petitions. For these reasons, it is necessary that the representations submitted by the petitioners have to be considered in detail by the respondents 1 and 2, taking into account, the fact that this form of Medicine had also proved its mettle during the Covid-19 Pandemic.

7. Accordingly, the writ petitions are disposed of. The respondents 1 and 2 are directed to consider the representations of the petitioners in all the writ petitions, taking into consideration, the Certificates and credentials of the petitioners and pass orders within a period of two months from the date of receipt of a copy of this order. No costs.

28.03.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

mbi



WEB COPY



WP(MD)Nos.4484, 4487, 4488, 4491, 4492 & 4493/2020

P.T.ASHA, J.

mbi

To

- 1.The Secretary to Government of India,
Union of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi.
- 2.The Secretary for Health and
Family Welfare Department,
St.George Fort, Chennai.
- 3.The Director General of Police,
Rajaji Salai, Chennai.
- 4.The Joint Director,
Rural and Medical Health Science,
Trichy District.
- 5.The District Collector,
Trichy, Trichy District.
- 6.The Registrar,
The Tamil University,
Thanjavur, Thanjavur District

WP(MD)Nos.4484, 4487, 4488,
4491, 4492 & 4493/2020

28.03.2023