



W.P(MD) No.11081of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.08.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.11081of 2021
and
W.M.P(MD) No.8693 of 2021

R.Balakrishnan

... Petitioner

-Vs-

1. The Secretary
Family and Health Department
Race Course Road, Little Mount
Guindy, Chennai- 600 032.
2. The Director General of Police
Kamarajar Salai,
Mylapore, Chennai- 600 004.
3. The Superintendent of Police,
Dindigul District
4. The Deputy Superintendent of Police,
Dindigul District
5. The Inspector of Police
Viruveedu Police Station
Dindigul District

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus forbearing the respondents from in any way interfering wiht the petitioners right to practice and prescribe alternative medicines strictly in conformity



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with the Certificate of Community Medical Services and alternative medicines to carryon lawful occupation under Article 19 (I)(g) of the Constitution of India by considering our representation dated 24-06-2021, in view of the law declared in Dr.Mukhtiar Chand case (1998 (7) SCC 579)

For Petitioner : Mr. K.Rajendra Prasad
For Respondents : Mr. R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus forbearing the respondents from in any way interfering with the petitioners right to practice and prescribe alternative medicines strictly in conformity with the Certificate of Community Medical Services and alternative medicines to carryon lawful occupation under Article 19 (I)(g) of the Constitution of India by considering our representation dated 24-06-2021, in view of the law declared in Dr.Mukhtiar Chand case (1998 (7) SCC 579).

2. The learned counsel appearing for the petitioner would contend that the petitioner herein is a practitioner of alternative medicine like Ayurveda, Unani etc and have undergone Community Medical Service Certificate (CMS) Course and successfully completed



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the course and obtained Diploma in CMS. The respondents are interfering with the petitioner's practice and harassing under the guise of enquiry without any complaints.

3. The learned Additional Public Prosecutor appearing for the respondents represented that no any representation received from the petitioner. Further the respondent police have not received any complaint against the petitioner and not threatened the petitioner and no any action was taken to arrest the petitioner.

4. The petitioner contention is that practitioner of alternative medicine like Ayurveda, Unani etc and have undergone Community Medical Service Certificate (CMS) Course and successfully completed the course and obtained Diploma in CMS. Whiles, the respondents are harassing him under the guise of enquiry without any complaint. But the respondent police denied the allegations of harassment and enquiry. Further the learned counsel appearing The learned counsel appearing for the petitioner produced copy of the judgment passed by this Court in W.P.Nos.10920 and 10921 of 2017, wherein this Court has held that :

4. In the light of the said assurance given in the affidavit filed in support of the writ petitions, both the



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writ petitions are disposed of, directing the respondents to permit the petitioners to practice in their respective field alone. So long as the petitioners are practicing in their respective mode of medicine, the respondents and their police officials are restrained from initiating any action against them. However, it is open to the respondents or their officials to verify and find out whether the petitioners are practicing in other fields, viz., Ayurveda, Siddha, Unani, Allopathy etc., and if the petitioners are practicing in such fields, it is open to the police officials to initiate action against such of the petitioners in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

5. In this case the respondent police have not taken any steps to arrest the petitioner and no any complaint received as against the petitioner.

6. The submission made by the learned Additional Public Prosecutor that they have not taken any steps to arrest the petitioner is recorded. Since the police have not taken any steps to arrest the petitioner, no further order is required to be passed in this case.



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7. With the said observation, this petition stands disposed of.

No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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6. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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P.DHANABAL, J.

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