



WEB COPY



W.P.No.30454 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30454 of 2022

M.T.Arunan

... Petitioner

Vs.

1. The Secretary,
Department of Ayush,
Red Cross Building,
Parliament Street, New Delhi.

2. Dr.Kumar Vivekanand,
Secretary, CCH,
No.61-65, 5th and 6th Floors,
Institutional Area,
New Delhi-110 058.

3. The Secretary CCH,
No.61-65, 5th and 6th floors,
Institutional area,
New Delhi-110 058.

4. Dr.Anil Kurana,
Chairman, CCH,
(National Commission for Homeopathy),
No.61-65, Institutional area,
opp 'D' block, Janakpuri,
New Delhi 110 058.



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5. Dr.Indranil Ghosh Mondal,
Deputy Advisor (H)
Ministry of Ayush,
Government of India,
Ayush Bhawan,
B Block, GPO complex,
INA colony, New Delhi-110 023.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 06.06.2022 in No.17-70/ 2021-CCH/ 2894 and quash the same and consequently direct the respondents to pay fees bills together with the interest at the rate of 24 percent per annum on the bills from the date of receipt of the respective bills till payments within time frame as fixed by this Honourable Court.

For Petitioner : Mr.A.V.Arun

For Respondents : Mr.R.Rajesh Vivekananthan,
Dy. Solicitor General,
(for Respondents 1, 4 & 5)

ORDER

The writ petition has been filed challenging the order dated 06.06.2022, regarding the payment of legal fees to the writ petitioner. The writ petitioner is a practising Advocate and have been engaged by the



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National Commission for Homeopathy to defend their cases before the High Court and other Courts.

2. The grievances of the writ petitioner is that he filed Vakalat, appeared on behalf of the National Commission of Homeopathy (erstwhile Central Council of Homeopathy), and defended their cases before the High Court and furnished the copy of the orders. However, the respondents have failed to settle the legal fees due to the petitioner. The request made by the petitioner went in vain, thus, the present writ petition came to be instituted.

3. The learned counsel for the petitioner, Mr.A.V.Arun would submit that the petitioner had submitted all the necessary documents to establish that he appeared before the Courts on behalf of the National Commission for Homeopathy and defended his case. However, the respondents have not settled the legal fees due to the petitioner and therefore, a direction is to be issued.

4. The learned counsel, Mr.R.Rajesh Vivekananthan, appearing on behalf of the respondents would oppose the said contention by stating that



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the particulars given by the petitioner were categorised into three parts. In the first category, legal fees were settled in respect of the cases where necessary orders were passed by engaging the petitioner. The second category, in respect of certain cases, the petitioner had not produced relevant documents to establish that he appeared and defended the National Commission for Homeopathy. The third category, wherein the petitioner was not at all engaged by the national for Homeopathy. In respect of the 2nd and 3rd categories, the Commission is not liable to settle fees in favour of the petitioner.

5. Mr.A.V.Arun, appearing for the petitioner would submit that during the pendency of the writ petition, the petitioner has collected certain documents from the Courts and submitted the same before the respondents for their consideration. Those documents have to be considered to settle the legal fees in respect of the cases. The respondent also sent a communication stating that those documents, submitted by the petitioner, are under consideration.

6. Regarding the disputed facts in payment of legal fees between the lawyers and the litigants, a writ petition is not entertainable and such



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disputed facts are to be adjudicated by approaching the competent civil court of law. Disputed fact require verification of documents and evidences available on record. Such a roving inquiry cannot be conducted by the High Court in a writ proceedings. High Court cannot issue a direction to settle the fees without verifying or scrutinising those documents to crystallise the rights and liability between the parties. Such rights and liabilities are to be adjudicated in the manner known to law. Thus, writ petition is not entertainable in a routine manner.

7. If there is no dispute in respect of settlement of fees, then a direction may be issued to settle the same. This being the legal principles to be followed in respect of the undisputed bills, the learned counsel for the respondents submitted that the fees due to the petitioner had already been settled, and in respect of disputed bills, the learned counsel for the petitioner would submit that further documents are submitted.

8. That being the factum established, the respondents are directed to consider the additional documents filed by the petitioner and the eligible legal fees shall be settled as per the OM and regulations in force. In respect of disputed claims, the petitioner is at liberty to approach the



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competent Civil Court of law. The respondents are directed to consider the case of the petitioner in respect of the Additional Document within the period of 6 weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition stands disposed of.

However, there shall be no order as to costs.

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



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S.M.SUBRAMANIAM. J.,

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