



W.P(MD)No.12485 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12485 of 2020

S.Kulandaivel

... Petitioner

Vs.

- 1.The State represented by
The Principal Secretary,
Department of Health
and Family Welfare,
Fort St.George,
Chennai – 5.
- 2.The Para Medical Council of India,
Ch.No.157/41, Near Laxmi Nagar,
Metro Station Gate No.1,
Vikas Marg,
Delhi – 110 092.
- 3.The Registrar,
Tamil Nadu Medical Council,
914, Poonamalle High Road,
Arumbakkam,
Chennai.



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4.The Joint Director of Medical
and Rural Health Services,
Directorate of Medical and
Rural Health Service,
Government Hospital Complex,
Dindigul – 624 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No. 3741/CEA/2020 dated 27.08.2020 on the file of the fourth respondent quash the same as illegal, and to consequently issue a direction, directing the fourth respondent to conduct inquiry and give an opportunity to the petitioner and register the petitioner's clinic under Tamil Nadu Private Clinical Establishment Act, 1997 within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 & R.4

Mr.C.Karthik
Standing Counsel for R.3

ORDER

Heard both sides.



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2.The petitioner has obtained certificate of Diploma in Community Medical Services with Essential Drugs from Indian Council of Medico Technicals and Health Care. The petitioner has set up an establishment on the strength of such certificate and wanted the respondents to recognize the same as a clinical establishment within the meaning of Tamil Nadu Private Clinical Establishment Act, 1997. This application was rejected by the fourth respondent on 27.08.2020. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for. The counsel placed reliance on the order dated 14.02.2003 passed by the Hon'ble Supreme Court in Appeal(Civil)No.152 of 1994 (Subhasis Bakshi & Others Vs West Bengal Medical Council & Others).

4.I am not persuaded by the submissions of the learned counsel appearing for the petitioner. As rightly pointed by the learned Special Government Pleader as well as the learned Standing Counsel for the



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Medical Council, the issue raised in this writ petition is no longer res integra. A learned Judge of this Court vide order dated 25.02.2020 in W.P(MD)No.20217 of 2019 etc batch (K.Sumathi & Others Vs Union of India) had already held that on the basis of the certificate issued by private institutions without affiliation to any of the statutory bodies / universities recognized by the Acts of legislature one cannot make any claim. I also had occasion dealt with a similar issue in W.P(MD)No. 14625 of 2020. Vide order dated 20.01.2021, I had held as follows:

“3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. In particular, he placed reliance on the order dated 14.02.2003 passed by the Hon'ble Supreme Court in Civil Appeal No.152 of 1994 (Subhasis Bakshi & Others Vs. West Bengal Medical Council & Others). The learned counsel for the petitioner took me through the contents of the said decision. No doubt, the said decision apparently appears to favour the writ petitioner herein. But then, the said decision was not rendered in the context of Tamil Nadu Private Clinical Establishments (Regulation) Act, 1997. As rightly pointed by the learned



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standing counsel appearing for the fourth respondent, a Clinical Establishment can only mean a Clinical Establishment under any recognized systems of medicine. I requested the learned standing counsel for the Tamil Nadu Medical Council to explain the expression “any recognized systems of medicine”. The learned standing counsel took me through the rules framed under the statute. Rule 2(1)(i) of Tamil Nadu Clinical Establishments (Regulation) Act, 2018 defines Doctor as a registered Medical Practitioners offering consultations or treatment under Allopathy or AYUSH. Registered Medical Practitioners is defined as a person who possesses 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 or any other statutory body recognised by the Government of Tamil Nadu.

4.Only if the petitioner falls within the aforesaid statutory definitions, he can apply for recognizing his establishment as a Clinical Establishment. The petitioner has not acquired qualification in any of the aforesaid systems of medicine. Therefore, the fifth respondent was justified in rejecting the petitioner's



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request. No interference is called for in the impugned order. The writ petition is dismissed. No costs.”

The case on hand is similar. The impugned order is sustained. This writ petition stands dismissed. There shall be no order as to costs.

03.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

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and Family Welfare,
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