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W.P.No.41490 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.11.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No.41490 of 2025

Sakthi

S/o.Chinnasamy, Residing at Door No.2/156,
Vedikottai Vilalge, Mittanoolahalli Post,
Dharmapuri Taluk, Dharmapuri District.

.. Petitioner

Vs

The Commissioner
Dharmapuri Municipality,
Dharmapuri District.

.. Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to process the application of the petitioner dated 05.09.2025 expeditiously.

For Petitioner : Mr.S.Thiruvengadam

For Respondent : Mr.M.S.Prem Kumar, Govt. Adv.



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ORDER

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The petitioner has secured a diploma in Ayurveda, Panchakarma and Nursing from S.H. Medical Center Hospital at Kottayam, Kerala. The Bharat Sevak Samaj issued a certificate that the petitioner has cleared the course of diploma in first class. The certificate was issued on 23.07.2018. On the strength of the certificate, the petitioner opened an Ayurveda clinic and massage center at 7/A, Narasimha Achari Road, Urigam, Dharmapuri town. Considering that this establishment is a clinic, the petitioner has applied to the respondent for grant of trade license on 05.09.2025. As the same was not considered, he has come up with the present writ petition.

2. When the matter came up for admission, Mr.M.S.Prem Kumar took notice for the respondent. He urged that an Ayurveda clinic would have to be treated as a massage parlour or a spa and consequently, an application has to be made in terms of Section 108A of the Tamil Nadu Urban Local Bodies Act, 1998 (Act, 1998) read with Rules 299(4) and 299(9) of the Tamil Nadu Urban Local Bodies Rules, 2023 (Rules, 2023). He further pointed out that as per the Rules, a person, who is



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possessed of a therapist training certificate, issued by any one of the institutions recognized by the State or the Central Government as a vocational training center or a skill development center, alone is entitled to seek for such a license. He urges the certificate secured by the petitioner does not fall within the four corners of Rule 299(2) of the Rules, 2023 and hence, the petitioner cannot be granted license.

3. I have carefully considered the submissions of both sides and gone through the records.

4. The petitioner is not seeking a license for a spa or a massage parlour. He claims that he is an expert in the field of Ayurveda and Panchakarma. One of the courses of treatment, under these two native health medicines, is providing massage to alleviate the illness complained of. The term massage center or spa has not been defined under the Act, 1998. If a person indulges in a business of exclusively dealing with massage or spa, only then Section 108A of the Act, 1998 read with the Rules, 2023 will apply. If massage is one of the several treatments that is being given by a duly qualified person, on that basis alone, the authorities cannot come to a conclusion that the petitioner is running a massage center.



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5. A massage center implies that only massage or spa alone are being dealt with, without any other medical treatment being rendered therein. This is clear from the qualifications prescribed under Rule 299(2) of the Rules, 2023. A person who is qualified as a therapist from the recognised center is qualified to apply for a massage or a spa license. If the argument of Mr.M.S.Prem Kumar is extended, then a person qualified in a medicine, which suggests massage as a treatment, would also be running a massage centre. This only leads to the situation of *Reductio ad absurdum*. The purpose of the Rule is to ensure that the massage or spa centre is run by a qualified person.

6. Insofar as the doctors are concerned, the Central Government has enacted a legislation under the name and style of 'the Clinical Establishments (Registration and Regulation) Act, 2010' (Act, 2010). As to what is a 'clinical establishment' is defined under Section 2(c)(i) of the said legislation. A clinical establishment means a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called, which offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine established and



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administered or maintained by any person or body of persons, whether incorporated or not.

7. A reading of Section 2(c)(i) of the Act, 2010 makes it clear that if a person is qualified in Ayurveda and is running a center, wherein he diagnoses his or her patients and prescribes massage as a mode of alleviating the sickness, then he would have to apply to the appropriate authorities under such legislation, and not approach the local body for the purpose of a license. Ayurveda is a recognised system of medicine as is clear from Section 2(h) of the 2010 Act. A local body does not have the jurisdiction to grant license for a clinic or a consulting room or any activities connected therewith. At the risk of repetition, if only massage is offered, irrespective of the fact as to whether the person is sick or otherwise, without diagnosis being attached to it, then Section 108A of the Act, 1998 read with Rule 299 of the Rules, 2023 would apply. Hence, the application made by the petitioner to the respondent for a grant of trade license is misconceived. The respondent does not have the jurisdiction to grant such a license. Even if they would have granted such a license, it would have been a case of an *ultra vires* exercise of power, as the local body does not have the jurisdiction to deal with such an



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application. It is for the petitioner to approach the appropriate authority under the Clinical Establishments (Registration and Regulation) Act, 2010 for the purpose of grant of a license.

8. It is pertinent to point out that Schedule II read with Rules 289(1), (2) and (5) of the Rules, 2023 specifically declares under clause 2(5) that the Rule and Schedule do not apply for a trade or business covered by the Act, 2010.

9. In the light of the above discussions, leaving it open to the petitioner to approach the appropriate authority, this writ petition stands dismissed. No costs.

05.11.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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V. LAKSHMINARAYANAN,J.

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To

The Commissioner,
Dharmapuri Municipality,
Dharmapuri District.

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