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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.04.2025

PRONOUNCED ON : 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

WP(MD)No.13342 of 2021
WMP(MD)Nos.10323 and 10325 of 2021

Kasinathadurai, S/o. Velu,
D.No.172, Sumaithangi, Kalari,
Ramanathapuram Petitioner(s)

Vs

1. The Secretary to the Government of India,
Ministry of Ayush, GPO Complex, INA, B, Block
New Delhi-110 023

2. The Director, Indian Medicine and Homeopathy,
Arumbakkam, Chennai -600 106

3. The Principal Secretary to Government, Health and
Family Welfare Department, Secretariat, Chennai -600 009

4. The Secretary, State Ayush Society,
Arumbakkam, Chennai Respondent(s)

Prayer:- This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorari and Mandamus, to call for the records, relating to the order of the 2nd Respondent in Ref.No.9226/E1/3/2021, dated 19.07.2021 and the order of the 3rd Respondent in Letter No.25388/1M2/2021-1, dated 15.07.2021 and to

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quash the same, as illegal, arbitrary and in violation of the operational guidelines of AYUSHMAN BHARAT issued by the National Health Mission, Government of India.

For Petitioner(s) : Mr.Angusamy for Mr.P.Kumar

For Respondent(s) : Mr.B.Ponnu Pandi, CGSC-R1
Mr.S.Vinoth, GA-RR2 and 3

ORDER

1. This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorari and Mandamus, to call for the records, relating to the order of the 2nd Respondent in Ref.No.9226/E1/3/2021, dated 19.07.2021 and the order of the 3rd Respondent in Letter No.25388/1M2/2021-1, dated 15.07.2021 and to quash the same, as illegal, arbitrary and in violation of the Operational Guidelines of AYUSHMAN BHARAT, issued by the National Health Mission, Government of India.

2. The facts of the case, in a nutshell, led to filing of this Writ Petition and necessary for disposal of same, are as follows:-

a) The Petitioner completed Diploma in Yoga in the year 2007 and M.Sc. Yoga in the year 2019 and thereafter, he worked as a Yoga Instructor in the Sports Development Authority of Tamil Nadu (SDAT) for about five years. Now, the Petitioner is working as an

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Independent Yoga Instructor at Schools, Colleges and NGO's, as per their demand.

b) The 1st Respondent, vide F.No.A-1230/1/2019-AB, dated 14.07.2020, issued a letter to the Director of Ayush of all States/Union Territories for engagement of Yoga Instructors at Ayush Health and Wellness Centers under the Ayushman Bharat. As per the said letter of the 1st Respondent, dated 14.07.2020, Yoga Teachers, who are already available in the locality with Certification/Diploma/Degree from a recognized body and who are currently practicing/teaching Yoga, may be deployed at HWC, after following all codel formalities.

c) The 2nd Respondent issued a Letter in Ref.No.9226/E1/2021, dated 08.07.2021 to all CHOs (Community Health Officers) for engagement of Yoga Instructors in 48 Health and Wellness Centers. However, the 2nd Respondent, vide his letter No-Ref. No. 9226/E1/3/2020, dated 09.07.2021 issued a direction to all CHOs, not to proceed further in the matter of engagement of Yoga Instructors.

d) While so, the 3rd Respondent has sent a letter in Ref. No.25388/1M2-2/20201-1, dated 15.07.2021, to the 4th Respondent,

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by giving preference to the Candidates with Bachelors of Naturopathy and Yogic Sciences (BNYS) Degree and stating that in the event of non-availability of BNYS Candidates, other eligible persons may be engaged. The 2nd Respondent has also issued a similar Circular, in Ref.No.9226/E1/ 3/2020, dated 19.07.2021. Hence, contending that the above said orders, dated 15.07.2021 and 19.07.2021 of the Respondents 3 and 2, respectively, are in violation of the Operational Guidelines of Ayushman Bharat Scheme, issued by the National Health Mission, Government of India, this Writ Petition has been filed, seeking the relief, as stated above.

3. In the counter affidavit filed by the 2nd Respondent, it is stated as under:-

a) Based on the Operational Guidelines of AYUSHMAN BHARAT, Yoga Teachers, who are already available in the locality with Certification/Diploma/Degree from a recognized body and who are currently practicing/Teaching Yoga may be deployed at Health and Wellness Centers. The Government have issued orders in GO.(D)No.1207, Health and Family Welfare Department, dated 23.09.1997, directing the 2nd Respondent to obtain the complete

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list of qualified persons in Naturopathy System of Medicine, who have registered with the Tamil Nadu Board of Indian Medicine and to select suitable Candidates from among them for appointment of individuals to the post of Medical Officers, Yoga Instructors, Therapeutic Assistants and Cleaning Persons, at Arignar Anna Government Hospitals of Indian Medicine, Chennai.

b) By GO(2D)No.13, Health and Family Welfare Department (IM2-2) dated, 02.05.2021, the Government sanctioned 48 Rural Dispensaries into Ayush Health Wellness Centers, under the AYUSHMAN BHARAT in SAAP 2019-2020 to engage the Yoga Instructors, on a pay scale of Rs.8000/- per month on part time basis and vide letter in Ref. No.9226/E1/3/2020, dated 08.07.2021, instructions were also issued to CHO's to engage the suitable persons as Yoga Instructors on part time basis in the Health Wellness Centers, under the AYUSHMAN BHARAT Scheme. However, by letter dated, 09.07.2021, the CHO's were instructed not to proceed to employ Yoga Instructors for want of certain clarification.

c) The 3rd Respondent, in Letter No.25388/IM2- 2/2021-1, dated, 15.07.2021 has given instructions to the Member Secretary, SAS,

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Arumbakkam, Chennai, stating that the Candidates with BNYS Degree may be appointed as Yoga Instructors and if no such qualified Degree Holder is available, other eligible person as per the Ayush Guidelines may be engaged as Yoga Instructor on temporary basis. Accordingly, the 2nd Respondent by Letter No. 9226/E1/3/2020, dated,19.07.2021, issued instructions for engaging Yoga Instructors with BNYS Degree.

d) The Petitioner is working as Yoga Teacher in School, Colleges, etc. The Sports Development Authority may deal with sports persons, who are having good fitness and they cannot be compared with the Health Wellness Centers. The Director of Indian Medicine is conducting Degree and PG courses for Yoga. Naturopathy Medical Professionals (BNYS and MD) need to be engaged to provide quality public health care to the patients as per the Government of Tamil Nadu Policy. Yoga Teacher can teach Yoga for the health of the school children and students, but he cannot be engaged in treating the patients in the Hospital/Clinics. Moreover, the subject matter of engaging Yoga Instructors at AYUSH Health Wellness Center comes under the purview of concerned State Government, as per the Government of India Statement in File No.v-12020/2/2019-

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A-B part(2), Government of India, Ministry of Ayush of Ayurveda, Yoga Naturopathy, AYUSHMAN BHARAT, New Delhi, dated 18.06.2021. The Petitioner possessed only Diploma in Yoga. The Candidates with BNYS Degree, if available, are to be employed as Yoga Instructors for providing quality public health care to treat the patients in hospitals/clinics. In such circumstances, this Writ Petition is liable to be dismissed.

4. This Court heard Mr.Angusamy for Mr.P.Kumar, the learned counsel for the Petitioner and Mr.B.Ponnu Pandi, the learned Central Government Standing Counsel for the 1st Respondent and Mr.S.Vinoth, the learned Government Advocate for the Respondents 2 and 3.

5. The learned counsel for the Petitioner has submitted that as per the Operational Guidelines of the Ayushman Bharath, the local Yoga Instructors are to be engaged preferably and that since the impugned orders are giving preference to the Candidates with BYNS Degree, in violation of the Operational Guidelines of Ayush Department, the same are illegal and arbitrary. The learned counsel has further contended that the AYUSH Wellness Scheme is a Central Government Scheme and therefore, the qualification prescribed by

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the Ministry of AYUSH should be followed by the State Government and they cannot insist upon a Degree Qualification, which is not in consonance with the instructions issued by the AYUSH Department and that the Scheme of the State Government, insisting for BNYS Degree is designed to favour certain candidates and to exclude qualified Yoga Instructors, which is contrary to the AYUSHMAN Bharat Scheme. Hence, he prayed for setting aside the impugned orders of the Respondents 2 and 3.

6. Per contra, both the learned Central Government Standing Counsel for the 1st Respondent and the learned Government Advocate for the Respondents 2 and 3 have made submissions on the same lines, relying on the counter affidavit filed by the 2nd Respondent to the effect that the State Government/Union Territories are empowered to implement the scheme by the State Health Policy to provide quality health care to the patients, who come for Yoga Treatment and that the Sports Persons cannot be engaged to give such treatment to the patients in the Hospitals/Clinics and that only Yoga Medical Professionals with BNYS Degree need to be engaged to provide quality public health care and that though the Degree Holders are qualified Yoga Instructors, but, engaging the Candidates with BNYS

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Degree for such purpose would be more beneficial and effective to the patients. They further submitted that since the State Government is also one of the Stake Holders in the above said Scheme, the concerned State is empowered to prescribe relevant and appropriate qualification for being appointed as a Yoga Instructor and that unless, a Degree recognised by University is prescribed as a qualification, there is every likelihood of some unqualified persons being appointed as a Yoga Instructor in the Government Primary Health Centres, based upon the certificates issued by unknown or unrecognized organisations and hence, they prayed for sustaining the impugned orders passed by the Respondents 2 and 3, by dismissing the present Writ Petition.

7. On the side of the Respondents, the ***judgement and order dated 06.02.2025, in WP(MD)No.23444 of 2023 (J.B.Somukumar Vs. Under Secretary to Government of India, Ministry of Ayush)*** *passed* ***by the Cooordinate Bench of this Court.*** *is relied upon.*

8. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record.

9. The issue that arises for consideration in the present Writ Petition is

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as to whether the impugned orders passed by the State Authorities/Respondents 2 and 3, excluding all other qualified persons, like the Petitioner herein, but including the BNYS Degree Holders for appointment to the post of Yoga Instructors in the AYUSH Wellness Centres located in India Medicine Dispensaries, are sustainable or not?

10. According to the Petitioner, he possessed Diploma in Yoga and also a Masters Degree in Yoga and now, he is working as an Independent Yoga Instructor at Schools, Colleges and NGO's, as per their demand. As per the Operational Guidelines of AYUSHMAN BHARAT, issued by the National Health Mission, Government of India, Yoga Teachers, who are already available in the locality with Certification/Diploma/Degree from a recognized body and who are currently practicing/teaching Yoga, have to be engaged at HWCs. As per the impugned orders, the Degree Holders with the qualification of Bachelors Degree in Naturopathy and Yogic Sciences (BNYS) have been directed to be appointed as Yoga Instructors in the AYUSH Wellness Centres. However, the Petitioner, who is a M.Sc. Degree Holder in Yoga cannot be excluded, as such exclusion is in violation of the Operational Guidelines of Ayushman Bharath.

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11. However, it is the case of the Respondents that though the Central Government issued guidelines for engagement of Yoga Teachers, who are having Certification/Diploma/Degree from a recognized body and who are currently practicing/teaching Yoga have to be engaged at HWCs, the State Government/Union Territories are empowered to implement the scheme by their own respective State Health Policy to provide quality health care to the patients and accordingly, the State Government passed the impugned orders, giving preference to the Candidates with BYNS Degree and hence, the Petitioner, who is having only a Master Degree in Yoga, cannot be considered for such appointment.

12. Be that as it may, it is not in dispute that these AYUSH Wellness Centres have been established in 48 Indian Medicine Dispensaries in the State of Tamil Nadu under the Central Sponsored Scheme of AYUSHAMAN BHARATH, with 40% of expenses borne by the State Government of Tamil Nadu. It is also not in dispute that the Ministry of AYUSH, in their instructions, dated 14.07.2020 to the Directors of AYUSH in all the States has instructed that qualified Yoga Teachers with Certification/ Diploma/Degree from a recognized body may be appointed as Yoga Instructors and that in case, where

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such qualified Instructors are not available, the other candidates, who have passed Higher Secondary Course and who are physically fit to learn and teach Yoga may be selected, after a formal training. The State Government also issued a Circular, dated 08.07.2021 on similar lines.

13. But, the 3rd Respondent/State Authority, who is empowered to implement their own scheme by their respective State Health Policy, by the impugned order, dated 15.07.2021, notified that firstly, if the Candidates with BNYS Degree are available, they may be appointed as Yoga Instructors on part time basis and then, if no qualified degree holders are available, other eligible persons, as per the Ayush Guidelines, may be engaged as Yoga Instructors. The 2nd Respondent/State Authority has also issued a similar circular, dated 19.07.2021 for engagement of Yoga Instructors.

14. As rightly pointed out by the learned counsel for the Respondents, the engagement of Yoga Instructors at the Ayush Health Wellness Centre comes under the purview of the concerned State/ UT Governments, as per the Government of India Statement in File No.v-12020/2/2019-A-B part(2), Government of India, Ministry of Ayush of Ayurveda, Yoga Naturopathy, AYUSHMAN BHARAT,

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New Delhi, dated 18.06.2021. Hence, it is clear that the impugned communications are in consonance with the instructions issued by the Ministry of AYUSH.

15. At this juncture, it is appropriate to mention that BNYS Degree has been offered to the Candidates, pursuing in Medical Institutions, where Indian Medicine is being taught. The Degree is issued to them by the Tamil Nadu Dr.M.G.R.Medical University and they have registered themselves before the Tamil Nadu Board of Indian Medicine. The BNYS Degree Holders have also registered themselves before the Central Council for Research in Yoga and Naturopathy, which is under the Ministry of AYUSH, Government of India. In such circumstances, the decision of the State Authorities/Respondents 2 and 3 to appoint the Candidates with BNYS Degree as Yoga Instructors cannot be found fault with.

16. Further, it is seen that the Indian System of Medicine Dispensaries have been upgraded as AYUSH Health and Wellness Centres under the Central Government Scheme. Therefore, since the Medical Practitioners cannot only teach yoga, but also teach Naturopathy, which cannot be performed by the mere Yoga Teachers, to the patients, who are visiting the said dispensaries, it would be more

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necessary and beneficial to appoint a Medical Practitioner, with BNYS Degree, as a Yoga Instructor in those dispensaries. In the present case, the Petitioner herein, who is only a Master Degree Holder in Yoga and not a BNYS Degree Holder, may not be of much help to the patients coming to the said dispensaries, except teaching Yoga. Considering the fact that the Ministry of AYUSH not only governs Yoga, but also Naturopathy, the appointment of BNYS Degree Holders would be more appropriate in these kinds of Indian System of Medicine Dispensaries in rural areas. That apart, there cannot be any dispute that BNYS Degree Holders from Indian System of Medical Colleges are more qualified than the Degree/Diploma/ Certification Holders from the other non Medical Institutions.

17. *The Coordinate Bench of this Court, by its* ***judgement and order dated 06.02.2025, in WP(MD)No.23444 of 2023 (J.B.Somukumar Vs. Under Secretary to*** *Government of India****, Ministry of Ayush),*** *was pleased to observe as under:-*

> *"21. It is an admitted fact that BNYS degree has been offered in Medical Institutions, where Indian Medicine is being taught. The degree is issued to them by Tamil Nadu Dr.M.G.R.Medical University and they have registered themselves before the Tamil Nadu Board of Indian Medicine. The BNYS degree*

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holders have also registered themselves before Central Council for Research in Yoga and Naturopathy, which is under the Ministry of AYUSH Government of India. In such circumstances, the decision of the fourth respondent to appoint them as Yoga Instructors cannot be found fault with.

22. It is also to be noted that the Indian System of Medicine Dispensaries have been upgraded as AYUSH Health and Wellness Centres under the Central Government Scheme. Therefore, it is all the more necessary that a medical practitioner is appointed as a Yoga Instructors in those dispensaries, so that they can not only teach Yoga, but also follow naturopathy to the patients who are visiting the said dispensaries. The petitioner and others who are degree/Certification/ Diploma holders in Yoga may not be of much help to the patients coming to the said dispensaries except teaching Yoga.

23. Considering the fact that the Ministry of AYUSH not only governs Yoga but also Naturopathy, the appointment of BNYS degree holders would be more appropriate in these kinds of Indian System of Medicine Dispensaries in rural areas. That apart, there cannot be any dispute that BNYS degree holders from Indian System of Medical Colleges would be more qualified than the degree/Diploma/ Certification holders from the other non Medical Institutions.

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24. In view of the above said deliberations, there are no merits in this Writ Petition. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed."

18. To sum and substance, the subject matter of engagement of Yoga Instructor at AYUSH Health Wellness Centre comes under the purview of concerned State/UT Government, as per the Government of India Statement in File No.v-12020/2/2019-A-B part(2), Government of India, Ministry of Ayush of Ayurveda, Yoga Naturopathy, AYUSHMAN BHARAT, New Delhi, dated 18.06.2021. When the stipulation of qualification for appointment of Yoga Instructors is within the domain of the State Government, the impugned orders, prescribing BNYS Degree qualification for appointment of Yoga Instructors by the State, cannot be questioned by the Petitioner. When a well-qualified Candidate with BNYS Degree is available, which is a professional Medical Degree, the Petitioner herein, with a mere Diploma in Yoga and a Master Degree in Yoga, cannot question his exclusion from appointing in the post of Yoga Teacher. The Candidates with BNYS Degree, are more qualified than those who are having Degree from Arts Colleges, who

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can merely act as Yoga Instructors. In such view of the matter, this Court is of the view that the impugned orders of the Respondents 2 and 3, proposing to engage Candidates with BNYS Degree as Yoga Instructors appears to be justified.

19. In the result, in the light of the observations and the discussions made above and in the light of the above said referred decisions, this Writ Petition **is dismissed.**

20. There is no order as to costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

25.04.2025

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
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To

1. The Secretary to the Government of India, Ministry of Ayush, GPO Complex, INA, B, Block, New Delhi-110 023

2. The Director, Indian Medicine and Homeopathy, Arumbakkam, Chennai -600 106

3. The Principal Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai -600 009

4. The Secretary, State Ayush Society, Arumbakkam, Chennai

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SHAMIM AHMED, J.

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Pre-Delivery Order in
WP(MD)No.13342 of 2021

25.04.2025

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