



W.P(MD).No.23444 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	06.01.2025
Pronounced on	06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD).No.23444 of 2023

and

W.M.P(MD) No.19653 of 2023

J.B.Somukumar

.... Writ Petitioner

Vs.

- 1.Under Secretary to Government of India,
Ministry of AYUSH,
B.Block, GPO Complex, INA
New Delhi – 110 023.
2. The Additional Chief Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
3. The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
4. The Commissioner,
Indian Medicine and Homeopathy,
Arumbakkam,
Chennai – 600 106.



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5. P.Soundara Pandian

6. T.Selvam

7. M.Gugan

8. C.Purushothaman

9. R.M.L.Indurani

10. G.Priya

11. N.Chellameena

12. P.Manimozhi

13. K.Mythili

14. C.Sri Vidhya

15. K.Sengodi

... Respondents

(R5 to R15 are impleaded vide order of this Court dated 26.09.2024 in W.M.P(MD) No.15060 of 2024 in W.P(MD) No.23444 of 2023)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking a Writ of Certiorari, to call for the records relating to the impugned proceedings in Ref.No.9226/E1/3/2020, dated 09.08.2023 on the file of the fourth respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai



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For R1 : Mr.K.Govindarajan
Deputy Solicitor General of India

For R2 to R4 : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.T.Amjadkhan
Government Advocate

For R5 : Mr.S.Rajeshwaran

ORDER

The instant writ petition has been filed challenging the communication of the fourth respondent herein dated 09.08.2023, wherein, a direction has been issued to all the AYUSH Health and Wellness Centres in the State of Tamil Nadu to engage only the qualified BNYS candidates as Yoga Instructors.

2. Under the National AYUSH Mission Scheme the State and Central Governments have decided to convert the Indian System of Medicine dispensaries in rural areas into Health and Wellness Centres. As per the said scheme, the State Government has to spend first and thereafter the State and Central Governments have to share the expenses in the ratio of 60:40. The Government of Tamil Nadu had issued G.O.



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(2D) No.12, Health and Family Welfare Department, dated 28.01.2020, sanctioning a sum of Rs.32.59 Crores including Central share of Rs.19.55/- Crores for upgradation of 48 Indian System of Medicine Dispensaries in the year 2019 – 2020 in rural areas.

3. The Government of Tamil Nadu had issued G.O(2D) No.13, Health and Family Welfare Department, dated 25.01.2021 granting administrative sanction of a sum of Rs.585.89/- Lakhs for upgradation of the 48 Indian System of Medicine Dispensaries. A perusal of the said Government Order reveals that a Yoga and Naturopathy Doctor would be appointed on part-time basis in each one of the Wellness Centres. The fourth respondent herein has addressed a communication to the second respondent requesting him to delete the word “Doctor” from the term Yoga and Naturopathy Doctor and replace with the nomenclature “Yoga Instructor” to be in consonance with the Government of India communication dated 14.07.2020. The said request was accepted by the second respondent and to amend the same a Government Order was issued in G.O.(D)No.715, Health and Family Welfare Department, dated 14.06.2021.



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4. On 08.07.2021, the fourth respondent has issued communication to all the Wellness Centres to engage qualified Yoga instructors in the Wellness Centres. In case, such qualified Yoga Instructors are not available in the locality, other candidates may be identified, who are physically fit to learn and teach yoga in the Community and may be selected after following all codal formalities.

5. On 15.07.2022, the second respondent has addressed a communication to Member Secretary, State AYUSH Society of Tamil Nadu indicating that if candidates possessing bachelor naturopathy and Yogic Science decree are available, they may be appointed as Yoga Instructors on part-time basis. Only if no qualified decree holder is available, other eligible persons may be appointed as Yoga Instructors as per the AYUSH guidelines. The said information was reiterated in another letter of the second respondent dated 19.07.2021 to all the Wellness Centres.

6. The fourth respondent herein on 09.08.2023 has issued the impugned communication to all the Wellness Centres to the effect that



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they should engage only qualified BNYS degree candidates as Yoga Instructors. In case of non availability of BNYS qualified Yoga Instructor the matter may be reported for further direction from his end. This impugned communication is under challenge in the present writ petition by the petitioner herein, who is one of the Yoga Instructor, on the ground that it includes candidates without BNYS from being appointed as a Yoga Instructor in a AYUSH Wellness Centres. The petitioner having acquired M.Sc. Degree in Yoga is also qualified as per the AYUSH guidelines, however, the impugned communication excluded the M.Sc., degree holders or other qualified persons and insists upon the BNYS degree is not legally sustainable.

7. According to the learned counsel appearing for the writ petitioner, the Ministry of AYUSH Government of India have not specified any degree qualification for being appointed as a Yoga Instructor in the AYUSH Wellness Centres. It is only stated that qualified Yoga Instructors from the said locality to be appointed. The petitioner having a M.Sc., degree in Yoga it should be considered to be a qualification for being appointed as a Yoga Instructor. In fact, when the



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nomenclature “Doctor” was introduced in G.O (2D) No.13, dated 25.01.2021, it was excluded by way of amending the said Government Order by publishing G.O.(D) No. 715, Health and Family Welfare Department, dated 14.06.2021. Therefore, insisting upon BNYS degree is not legally sustainable.

8. The learned counsel appearing for the petitioner has further contended that the AYUSH Wellness Scheme is a central Government Scheme and therefore, the qualification prescribed by 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.

9. The learned counsel appearing for the petitioner herein further contended that some of the Primary Health Centres in the State of Tamil Nadu have been brought under the AYUSHMAN Bharat Scheme and those centres have been converted into AYUSH Wellness Centres. The main task of Yoga Instructor is to prevent diseases by modifying the life style of the concerned person. The BNYS degree holders or Doctors are



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expected to cure a disease after it has affected as a person. The main object of these Wellness Centres is to prevent diseases and the Yoga Instructor could very well take up the said task as per the guidelines issued by the AYUSH Ministry Government of India. He further contended 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 communication of the fourth respondent.

10. The learned Additional Advocate General appearing for the fourth respondent herein relying upon the counter affidavit had contended that BNYS degree holders are qualified Yoga Instructors. Such a degree is offered by the Government Institutions also, Under G.O. (D) No.715, Health and Family Welfare Department, dated 14.06.2021 only the nomenclature “Doctor” was deleted. However, the qualification of BNYS degree for the purposes of appointment as a Yoga Instructor continues. He further contended that the State is also one of the Stakeholders in the above said Scheme, spending 40% of the expenses arising



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out of the said Scheme. In such circumstances, the State can prescribe qualification for being appointed as a Yoga Instructor. 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 un-recognized organisations. Hence, he prayed for sustaining the order passed by the fourth respondent and for dismissal of the writ petition.

11. The learned Deputy Solicitor General of India representing the first respondent had placed on record, the written instructions received by him for defending the above said writ petition. A perusal of the written instructions reveal that the Ayushman Bharat Scheme is a Centrally Sponsored Scheme. The first respondent had extracted the guidelines issued by them on 14.07.2020 for the implementation of the Scheme in the written instructions. A perusal of the said instructions reveal that if qualified Yoga Teachers are available in the locality with Certification/Diploma/Degree from a recognised body and who are currently practicing/teaching yoga they may be deployed in the Health



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Wellness Centres. It further reveals that if no such qualified Yoga Instructor is available, other candidates may be identified from the local area who have atleast passed higher secondary level and who is physically fit to learn and teach yoga in the Community and may be selected after following all codal formalities.

12. The written instructions of the first respondent further reveals that the Government of Tamil Nadu, while issuing communication on 09.08.2023 for engagement of Yoga Instructors have taken due care of the guidelines issued by the Central Government Ministry of AYUSH, in their proceedings dated 14.07.2020.

13. The learned counsel appearing for the private respondents, who are having BNYS degree, relying upon the reply by the Ministry of AYUSH, on 18.06.2021 of online RTI application had contended that the subject matter of engagement of Yoga Instructor at AYUSH Health Wellness Centre comes under the purview of concerned State/UT Government. Relying upon the said information furnished by the AYUSH Ministry, the private respondents have contended that when the



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qualification is within the domain of the State Government, the impugned communication issued by the fourth respondent cannot be questioned by the petitioner. When a well-qualified degree holder is available with BNYS degree, which is a professional medical degree, the petitioner with certificate or other degree cannot question their exclusion.

14. The learned counsel appearing for the fifth respondent relied upon the Central Registration Certificate issued for BNYS degree holders by the Central Council for Research Yoga and Naturopathy. He further relied upon the degree certificate issued by the Tamil Nadu Dr.M.G.R.Medical University for having admitted to the degree of Bachelor of Naturopathy and Yogic Science (BNYS) under the faculty of naturopathy and Yoga. He also relied upon the Registration Certificate issued by the Tamil Nadu Board of Indian Medicine, and contended that they are qualified Yoga Instructors as well as the Medical professionals and therefore, they are more qualified than those who are having degree from Arts Colleges, who can merely act as Yoga Instructors. Hence, he prayed for dismissal of the writ petition.



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15. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

16. The issue that arises for consideration in the present writ petition is that whether the impugned communication of the fourth respondent dated 09.08.2023, which excludes all qualified persons except BNYS degree holders for appointment to the post of Yoga Instructor in AYUSH Wellness Centres located in India Medicine Dispensaries is valid?

17. As per the impugned communication of the fourth respondent 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 contends that such a degree holder cannot be excluded.



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18. 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. The Ministry of AYUSH in their instructions dated 14.07.2020 to the Director 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. In case, where 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 appointed after a formal training. The Deputy Solicitor General Government of India has placed on record the written instructions issued by the Ministry of AYUSH pertaining to the present writ petition.

19. Paragraph No.5 of the written instructions is extracted as follows:

5. It is however observed from Impugned Letter dated 09.08.2023 issued by State Government of Tamilnadu, Commissionerate of Indian Medicine and Homeopathy, Chennai, that.



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the guideline issued by the Ministry of Ayush have been taken care of. Further, the State Government has proposed to appoint Yoga Instructor in their Health & Wellness Center from amongst BNYS qualified yoga instructors.”

20. It is clear from the written instructions that the impugned communication dated 09.08.2023 has taken care of the guidelines issued by the Ministry of Ayush on 14.07.2020. Therefore, it is clear that the Ministry of AYUSH has also approved or concurred with the State Government with regard to the impugned communication dated 09.08.2023. As rightly pointed out by the learned counsel appearing for the private respondents, the information furnished by the Ayush Ministry under the RTI Act dated 18.06.2021 reveals that the engagement of Yoga Instructor at Ayush Health Wellness Centre comes under the purview of the concerned State/ UT Government. Hence, it is clear that the impugned communication is in consonance with the instructions issued by the Ministry of AYUSH on 14.07.2020 and in fact it is in clear compliance with the said instructions.



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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 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.



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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.

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.

06.02.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The Secretary to Government of India,
Ministry of AYUSH,
B.Block, GPO Complex, INA
New Delhi – 110 023.
2. The Additional Chief Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
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Pre-Delivery Order in

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