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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MRS. JUSTICE PREETA A.K.

WEDNESDAY, THE 17TH DAY OF JUNE 2026/27TH JYAISHTA, 1948

W.A.NO.1737 OF 2020

AGAINST THE JUDGMENT DATED 16.11.2020 IN W.P(C).NO.19208 OF 2019
OF HIGH COURT OF KERALA

APPELLANT/3RD RESPONDENT IN W.P. (C) :

THE TRAVANCORE-COCHIN MEDICAL COUNCIL
REPRESENTED BY ITS SECRETARY, RED CROSS ROAD,
TRIVANDRUM - 695 001.

BY ADV.SRI.N.RAGHURAJ (SR.)
BY ADV.SRI.LAL K.JOSEPH
BY ADV.SRI.P.MURALEEDHARAN (THURAVOOR)
BY ADV.SMT.T.A.LUXY
SRI.SURESH SUKUMAR
SRI.ANZIL SALIM
SHRI.SANJAY SELLEN

RESPONDENTS/PETITIONER & RESPONDENTS 1 & 2 IN W.P. (C) :

- 1 RAJESH K.
AGED 43 YEARS
S/O.GOVINDAN O.P., KANNOTH, KUNNABRATH HOUSE,
MAKRERI P.O., BHAVODE, MUNDALLOOR P.O., KANNUR,
PIN - 670 822.
- 2 STATE OF KERALA
REPRESENTED BY HOME SECRETARY TO THE GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
- 3 DIRECTOR GENERAL OF POLICE
THIRUVANANTHAPURAM, PIN - 695 001.



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BY ADV.SRI.A.T.ANIL KUMAR
BY SRI.T.P.SAJID, SENIOR GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
10.06.2026, THE COURT ON 17.06.2026 DELIVERED THE FOLLOWING:



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“C.R.”**J U D G M E N T****Dr. A.K. Jayasankaran Nambiar, J.**

The Travancore-Cochin Medical Council, represented by its Secretary, is the appellant before us aggrieved by the judgment dated 16.11.2020 in W.P.(C).No.19208 of 2019. The writ petition was filed by the 1st respondent herein, who claimed to be a practitioner of alternative medicine, and in particular, Electro-Homeopathy, for which he was supposedly qualified by virtue of Ext.P1 diploma certificate obtained by him from the Council of Electro Homeopathic System of Medicine, Kanpur, U.P. It was the case of the 1st respondent in the writ petition that the appellant herein had caused the State and its police machinery to interfere with his practice of Electro-Homeopathy without establishing any illegality on his part in the pursuit of such practice.

2. The learned Single Judge, who considered the matter, took note of the Division Bench of this Court in W.P.(C).No.19484 of 2008, wherein, in a similar factual situation, the Court had found that in the absence of any material brought to its notice to suggest that the practice of Electropathy/Electro-Homeopathy was prohibited under law, the police could not interfere with the practice of Electropathy carried on by a citizen. The court reasoned that the principle of rule of law mandates that a citizen is free to do anything not prohibited by law, and if a citizen



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challenges State action, the State had to show the legal pedigree of its action.

3. In the appeal before us, we have heard Adv. Sri.Lal K. Joseph, the learned counsel for the appellant Council and Sri.A.T.Anil Kumar, the learned counsel for the 1st respondent/writ petitioner. We have also heard Sri.T.P.Sajid, the learned senior Government Pleader for the official respondent of the State.

4. The learned counsel for the appellant would submit that the assumption by the learned Single Judge that the practice of Electro-Homeopathy was not regulated by any law is factually incorrect. Referring to the provisions of the Travancore-Cochin Medical Practitioners Act, 1953 and the Kerala State Medical Practitioners Act, 2021 that succeeded it in the State of Kerala, he points out that, every person, who is ordinarily engaged in the practice of Homeopathic medicine is subject to the regulatory provisions under the aforesaid enactment. Accordingly, without a registration as envisaged under those enactments and without the name of the practitioner being entered in the list of practitioners published in terms of those enactments, the writ petitioner could not lawfully practice Electro-Homeopathy. He would go on to contend that a mere perusal of the diploma certificate produced by the 1st respondent/writ petitioner as Ext.P1, would reveal that the diploma obtained by the 1st respondent/writ petitioner is one that shows him as qualified in the field of Electro-Homeopathic medicine, and



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hence, the respondent/writ petitioner cannot be heard to contend that his practice in Homeopathic medicine is unregulated.

5. Per contra, the learned counsel for the respondent/writ petitioner would maintain that Electro-Homeopathy is merely a therapy which, like aromatherapy or naturopathy, is not regulated by the Statutes referred to above, and hence, the impugned judgment of the learned Single Judge does not call for any interference. He would also rely on the earlier Division Bench judgment of this Court that was relied upon by the learned Single Judge, as a precedent to support his contention on merits.

6. On a consideration of the rival submissions, we are of the view that this Writ Appeal must necessarily succeed. At the outset, we might observe that the Division Bench judgment of this Court in W.P.(C).No.19484 of 2008, that was relied upon by the learned Single Judge, cannot be seen as a precedent for the proposition that the practice of Electro-Homeopathy is unregulated. Firstly, we find from a perusal of the said judgment that it proceeded to decide the *lis* before it in the absence of any material produced by the parties, that pointed to the existence of any law prohibiting the practice of Electro-Homeopathy. Read with the fact that the judgment did not refer to the provisions of the Travancore-Cochin Medical Practitioners Act, 1953 that were in vogue then, we are constrained to view the said judgment as *per incuriam* for not noticing the statutory provisions that held the field.



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Secondly, we cannot find it in ourselves to accept as a general proposition that, in our country, which is governed by a written Constitution, a citizen has an absolute liberty to do anything unless expressly prohibited by law. As is well settled in our constitutional jurisprudence, the concept of absolute liberty is alien to our Constitution, and the protection of rights and liberties thereunder is only of such rights and liberties as remain when balanced against a citizen's corresponding duties and obligations towards fellow citizens.

7. On the facts of the instant case, we find that the qualification obtained by the 1st respondent/writ petitioner, even assuming it is a recognized one, is in a branch of Homeopathic medicine. If that be so, he would be regulated by the provisions of the Statutes mentioned above, should he pursue a practice as a practitioner of Electro-Homeopathic medicine. To hold otherwise would be disastrous for the people of this country, for, it is their lives that are at stake. While a citizen is guaranteed a fundamental right to practice any profession or to carry out any occupation, trade or business, that right is by no means absolute in nature. It is subject to laws regulating professional qualification and conduct that are enacted with a view to balancing the rights of the professional concerned with the right to life and proper healthcare of persons who receive medical care and treatment.

8. The upshot of the above discussion is that we allow this Writ Appeal, by dismissing the writ petition and declaring that the practice of



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Electro-Homeopathy is indeed regulated by the provisions of the Travancore-Cochin Medical Practitioners Act, 1953 and the Kerala State Medical Practitioners Act, 2021, as applicable.

The Writ Appeal is allowed.

**Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE**

**Sd/-
PREETA A.K.
JUDGE**

prp/