

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.23993 of 2015

1. Periya Elayaraja
2. G.Ravi
3. R.Ramachandran
4. K.Sivakumar
5. S.Gopalakrishnan
6. K.Srinivasan
7. K.B.Krishnamurthy
8. K.Balasekaran
9. S.Manoharan
10. M.Murugesan
11. M.Muthuselvan
12. G.Senthilnathan
13. K.V.Gnanasekaran
14. M.Mohideen Khan

15. R.Ganesan
16. N.Visvam
17. F.Abdul Wahid
18. N.Arulmaran
19. D.John Mano
20. S.Alagappan
21. A.Natarajan
22. R.Venkatesan
23. R.Banumathi
24. K.Dhatchanamoorthy
25. P.N.Manickavasagan
26. M.Keerthi Raj
27. M.Nagarajan
28. S.Sridharan
29. B.Shajahan
30. B.Sardar
31. S.Sadeesh
32. S.Muthurkumaran
33. K.Varadarajan
34. S.Muthuraj

35. C.Elango
36. R.Sivanathan
37. N.M.I.Sahul
38. S.Peter Gunasekaran
39. M.Mohamed Rafiq
40. T.Indhira
41. M.Chandrasekaran
42. K.Dhandapani
43. R.Dhanapal
44. M.Hanifa
45. V.Thangavel
46. Ayyumganapathy
47. R.Ravichandran
48. I.Raja Raja Cholan
49. S.Rajakannu
50. K.Shantha Durga
51. U.Sekar
52. N.Kulandaivelu
53. D.Ahmed Yaseen

54. A.Kathamuthu

55. N.Murugesan

56. G.S.Sivakumar

57. V.Dharuman

58. M.Matheswaran

59. K.Nallamohamed

60. T.Shanmugam

61. M.Selvakumar

...Petitioners

-Vs-

1. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-4.
2. The Superintendent of Police,
Nagapattinam, Nagapattinam District.
3. The Superintendent of Police,
Thiruvarur, Thiruvarur District.
4. The Superintendent of Police,
Peramabalur, Perambalur District.
5. The Superintendent of Police,
Trichy, Trichy District.
6. The Superintendent of Police,
Thanjavur, Thanjavur District
7. The Superintendent of Police,
Villupuram, Villupuram District.

8. The Superintendent of Police,
Vellore, Vellore District.
9. The Superintendent of Police,
Thiruvallur, Thiruvallur District.
10. The Superintendent of Police,
Cuddalore, Cuddalore District.
11. The Superintendent of Police,
Salem, Salem District.
12. The Superintendent of Police,
Kancipuram, Kanchipuram District
13. The Superintendent of Police,
Krishnagiri, Krishnagiri District.
14. The Superintendent of Police,
Namakkal, Namakkal District.
15. The Superintendent of Police,
Tirupur, Tirupur District.
16. The Superintendent of Police,
Theni, Theni District.
17. The Commissioner of Police,
The Greater Chennai,
Egmore, Chennai-8.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the Respondents from in any way interfering with the petitioners right to

practice and prescribe alternative medicines strictly in conformity with the Certificate of Community Medical Services to carryon lawful occupation under Article 19 (1)(g) of the Constitution of India by considering their representation dated 15.07.2015, in view of the law declared in Dr.Mukhtiar Chand case (1998 (7) SCC 579).

For Petitioners : M/s.N.Manokaran

For Repondents : Mr.S.Ravichandran, AGP

ORDER

The writ on hand has been instituted to forbear the respondents in any way from interfering with the petitioners' right to practice and prescribe alternative medicines strictly in conformity with the Certificate of Community Medical Services to carryon lawful occupation under Article 19 (1)(g) of the Constitution of India by considering their representation dated 15.07.2015.

2.All the petitioners jointly filed the present writ petition stating that they are the practitioners of alternative medicines like Acupuncture, Electropathy, Hypnotherapy, Egnetherophy and Yoga etc. The petitioners have undergone Community Medical Service Certificate Course (CMS) and successfully completed the course and obtained a

Diploma in CMS. The course was for a period of six months which includes teaching and training classes. The petitioners state that they gained experience in examining, diagnosing and treating the patients.

3.The grievances of the petitioners are that they are being obstructed by the Police authorities and other medical departmental authorities while practising alternate medicine in their respective locations. Since the petitioners were intercepted periodically, they have submitted a representation to the Government to recognise their medical practice which is otherwise in accordance with the course undergone by them.

4.The learned counsel for the petitioners mainly contended that the petitioners have completed six months Community Medical Service Course which is a Diploma Course and thereafter, continued to practice medicine. Therefore, the respondents must be restrained from initiating action against the writ petitioners while practising alternate medicine in their alternate locality.

5.The learned Additional Government Pleader appearing on behalf of the respondents contended that the writ petitioners are not qualified medical practitioners. They have not undergone any recognized medical courses being conducted under the provisions of the statute or rules in force. The Diploma in Community Medical Services Certificate Course issued in favour of the writ petitioners by the National Board of Alternate Medicine is not a recognized institute itself but it is a private institute and therefore, such diploma courses conducted for six months cannot be considered as a valid course for the purpose of granting permission to the writ petitioners to practice alternate medicine. The petitioners have not defined the alternate medicines or explained their area of medical practice. They generally contended that they are practising alternate medicine which cannot be accepted.

6.The treatments if any given by the petitioners cannot be trusted upon and unqualified persons like the petitioners cannot be permitted to treat the patients which would be disastrous and thus, the writ petition is to be rejected.

7.No doubt alternate medicine is available across the country but practising medicines should be only by qualified medical practitioners. Unqualified persons cannot claim any right to practice alternate medicines. In this regard, Section 2(f) of the Indian Medical Council Act 1956 states that “***‘medicine’ means modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery;***” As per Section 15(2) (b) “*no person other than a medical practitioner enrolled on a State Medical Register shall practice medicine in any state;*” Thus, the petitioners, in the absence of getting registered their names as per the provisions of the act, are not entitled to practice medicine, alternate medicine or otherwise.

8.The learned Additional Government Pleader drew the attention of this Court to the fact that legal actions were already initiated against the writ petitioners for their violation under the act and rules. Courts have also passed orders that unrecognised persons cannot be allowed to practice medicine in any form.

9. In the present case, the certificate issued by the National Board of Alternate Medicine and its legal validity are to be enquired into by the

Police Authorities. The said National Board of Alternate Medicine, granting diploma certificates for six month course or in accordance with the Statutory provisions and in consonance with the guidelines issued by the Medical Council of India are also to be looked into. If any violations, illegalities, irregularities are identified, then all necessary and suitable actions are to be initiated.

10. Allowing any unrecognised institute to conduct six months medical courses and issue diploma certificates would result in disastrous consequences in the society. Health being an integral part of Article 21 of the Constitution of India, the 'State' is duty bound to ensure that the unrecognised institutes are dealt with properly in accordance with law and the invalid diploma certificates issued by those unrecognised medical institutions are cancelled and the persons secured such certificates are prevented from practising medicine in the society. This being the Constitutional mandate of the State to ensure Right to Life under Article 21 of the Constitution of India, the present case requires an enquiry at large, so as to find out, whether many persons in the society on getting such medical certificates, practising alternate medicine or not.

11. The writ petitioners herein are neither holding any valid medical decree nor their names are enrolled as medical practitioners in the Tamil Nadu Medical Council. Thus, they are not entitled to practice alternate medicine or any other practice in the medical field. Thus, the petitioners have not established any acceptable ground for the purpose of considering the relief.

12. Accordingly, this Court is inclined to pass the following orders:

- (1) The relief as such sought for in the present writ petition stands rejected.
- (2) The 1st respondent / Director General of Police is directed to issue appropriate circulars to all the District Superintendents of Police and Commissioner of Police and to the competent authorities to conduct periodical inspections, collect informations regarding unregistered or unrecognised medical practitioners, who all are practising medicine in any locality and initiate all appropriate and necessary legal actions against them in accordance with law.
- (3) The respondents are directed to ensure that the petitioners do not continue their medical practice

either in alternate medicine or in any form of medicine hereinafter in the absence of any valid medical certificate recognised under the Statute and Rules in force and without their names being registered in the Medical Council of Tamil Nadu.

13. With the above directions, the writ petition stands **disposed of**.

However there shall be no order as to costs.

06.03.2023

Index:Yes

Speaking order

Neutral Citation: Yes

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To

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