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17-26/2000

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY
WRIT PETITION NO : 21538 of 2000



Between:

The Visakhapatnam District Homoeo, Medical Practitioners Association,
Visakhapatnam (regd. no. 28/82) a. Society Registered Under Societies
Registration Act 1860, Rep. by its Secretary Dr.Permburi Narasimha Rao, S/o
Late Appa Rao, Registered Homoeo Practitioner, Door No. 15-15-
6, Bhudhavarapu Gardens, Mahranipeta, Visakhapatnam-530 002.

..... PETITIONER

AND

- 1 Union of India, Rep. by its Secretary,
Ministry of Health & Family Welfare, Government of India,
Nirman Bhavan, New Delhi.
- 2 The Government of Andhra Pradesh, Rep. by its Principal Secretary,
Health, Medical & Family Welfare Department, Secretariat Buildings,
Hyderabad -500 022
- 3 The Andhra Board for Homoeopathy, Hyderabad, Andhra Pradesh.
Rep. by its Registrar, Andhra Board for Ayurveda & Homoeopathy,
8-1-14, Market Street, Secunderabad-3.
- 4 The Registrar, Central Council for Homoeopathy,
Jawaharlal Nehru Bharatiya Chikitsa, AVUM Homoeo Anusandhana
Bhavan, Door No.61-65, 5th & 6th Floors, Opp D.Block, Institution
Area Janakpuri, New Delhi-110058.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that
in the circumstances stated in the Affidavit filed herein the High Court will
be pleased to issue a Writ, Order or Orders or Directions particularly in
the nature of Writ of Mandamus declaring the action of the official
respondents Viz, "not taking any steps to recognise the certificates
issued by the 3rd respondent as valid for the purpose of central Act and
thereby depriving the rights of the petitioners though the petitioners
names were included in the State Register and also in the Central
Register," as illegal, arbitrary, discriminatory in nature, violative of Arts.
14, 21 of the Constitution of India, besides violative of the Central Act
and consequently directing the respondents to include the certificates
issued to B Class Homoeo Practitioners by the 3rd respondent in
pursuance of chapter 3 of the Central Act and declare the same as valid
and include the certificates held by the members of the B Class RMPs in
the 2nd Schedule of the Central Act (Sec.13) under the heading
"Recognized Medical Qualifications in Homoeopathy granted by
Universities, Boards or Medical Institutions in India", in the interest of
justice.

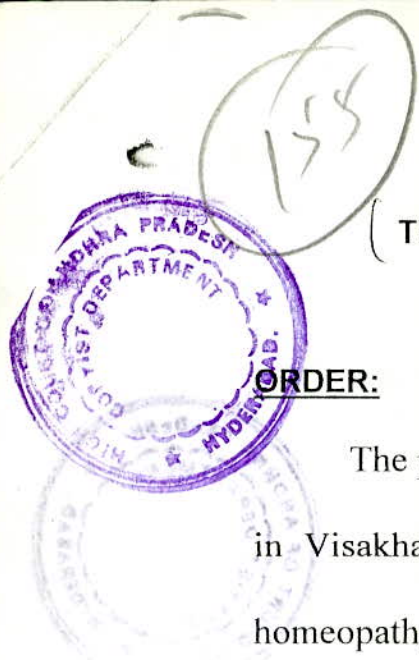
Counsel for the Petitioner: SRI. M. VENKAT RAJA RAM

Counsel for the Respondents 1 & 4 : SRI. DEEPAK BHATTACHARJEE
(S.C. FOR CENTRAL GOVERNMENT)

Counsel for the Respondent 2 & 3: G.P. FOR MEDICAL & HEALTH

The Court made the following ORDER:-





(THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO :21538 of 2000)

ORDER:

The petitioner is an association of Homeo Medical Practitioners in Visakhapatnam District. The members of the association are homeopathy practitioners. It appears that the members did not undergo any formal courses, leading to award of degree or diploma.

The Andhra Ayurvedic and Homeopathic Medical Practitioners Registration Act, 1956 (for short 'the Andhra Pradesh Act') provides for recognition of practitioners by issuing certificates to different categories of persons. Section 28 of this Act provides for maintenance of a register of practitioners. Separate parts are to be maintained for the practitioners of Ayurvedic, Unani Tibbi, prakriti and homeopathic systems. Further, in each of these categories, the practitioners are divided into two classes viz., class (a) and (b). Class (a) comprises of those, who hold degrees or diplomas in the concerned discipline; and class (b) comprises of those practitioners, who do not fall in class (a) but are entitled to have their names included in Section 27.

The Parliament enacted Homeopathy Central Council Act, 1973 (for short 'the Homeopathy Act'). It provides for registration of persons, which in turn would entitle them to practice in any part of India and to participate in the election to the central council. In the Second Schedule, the qualifications that are required to be possessed by the candidates are mentioned. So far as State of Andhra Pradesh is

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concerned, the diploma certificates issued by four institutions are recognized.



The grievance of the petitioner is that its members do not find place anywhere in the Homeopathy Act, though they are recognized as practitioners under the Andhra Pradesh Act. They seek directions to the respondents herein to take necessary steps for inclusion of class (b) practitioners under Section 28 of the Andhra Pradesh Act in the Homeopathy Act also.

Heard Sri M.V.Rajaram, learned counsel for the petitioner, Sri Deepak Bhattacharjee, learned counsel for respondents 1 and 4 and the learned Government Pleader for Medical and Health appearing for respondents 2 and 3.

The Legislature of the State of Andhra Pradesh on the one hand and the Parliament of India on the other have enacted laws for regulating the practice of homeopathy. The Andhra Pradesh Act provides for registration of not only those persons, who possess the degrees or diplomas awarded by the concerned institutions, but also those who practice the concerned discipline, but without possessing any formal degree or diploma. The efficiency of such candidates is tested by conducting examinations. Similar facility is not however provided under the Central Legislature viz., the Homeopathy Act. It is only the persons who possess the degrees or diplomas awarded by the institutions mentioned in the Second Schedule that are entitled to be



registered. On being included in the register, the concerned persons acquire the right to practice anywhere in India and also to participate in the elections.

The petitioner cannot insist that the candidates who do not possess any formal degree or diploma must also be brought under the purview of the Homeopathy Act. It is for the Parliament to take a decision in this regard. In its wisdom the Parliament felt it not necessary to provide for registration of persons without any formal educational qualifications in the concerned discipline. This Court cannot substitute its opinion for that of the Parliament. The respondents cannot be compelled to take steps for inclusion of the class (b) practitioners under the Andhra Pradesh Act in the Second Schedule II to the Homeopathy Act.

The writ petition is accordingly dismissed. There shall be no order as to costs.

Imaee 20/1/09
SUPERINTENDENT
COPY: ST DEPARTMENT
High Court of A. P.
HYDERABAD

// TRUE COPY //

SD/- P.S. SOMAYAJULU
ASSISTANT REGISTRAR

SECTION OFFICER

TO

1. The Secretary, Union of India, Ministry of Health & Family Welfare, Government of India, Nirman Bhavan, New Delhi.
2. The Principal Secretary, Government of Andhra Pradesh, Health, Medical & Family Welfare Department, Secretariat Buildings, Hyderabad -500 022
3. The Registrar, Andhra Board for Homoeopathy, Hyderabad, Andhra Pradesh, Andhra Board for Ayurveda & Homoeopathy, 8-1-14, Market Street, Secunderabad-3.
4. The Registrar, Central Council for Homoeopathy, Jawharlal Nehru Bharatiya Chikitsa, AVUM Homoeo Anusandhana Bhavan, Door No.61-65, 5th & 6th Floors, Opp D.Block, Institution Area Janakpuri, New Delhi-110058.
5. Two CCs to the G.P. for Medical & Health, High Court of A.P., Hyderabad. (OUT)
6. Two CD copies
7. One CC to Sri Deepak Bhattacharjee, Advocate (OPUC)
8. One CC to Sri M. Venkat Raja Ram, Advocate (OPUC)

MVL. *SVR*

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HIGH COURT

DATED: 24/12/2008

CO-32728/08
WP-21538/00

Deepak Bhatta chargee

cf-8-00

ORDER

W.P. NO. 21538 OF 2000

Dismissing the W.P. without costs.

10 Copies

FOR
24/1/09

THE HIGH COURT OF ANDHRA PRADESH HYDERABAD.	
CD No.	32728 of 2008
Application made	31-12-2008
Application returned	2008
Application represented	2008
Stamps called for	29-1-2009
Stamps deposited	30-1-2009
Adl. Stamps called for	2008
Adl. Stamps deposited	2008
Copy ready	30-1-2009
Copy delivered	2008

Section Officer