

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF OCTOBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE A.S. BOPANNA

WRIT PETITION NO.50769 of 2016 (GM-RES)

BETWEEN:

VAIDYA H.G GOPALA SWAMY
S/O GOVINDA GOWDA,
AGED ABOUT 55 YEARS
SRI VENKATESHWARA CLINIC,
NEAR CORPORATION BANK
SHRAVANABELAGOLA VILLAGE & POST,
CHANNARAYAPATNA TALUK,
HASSAN DISTRICT-573 135.

... PETITIONER

(BY SRI: RAJAGOPAL M R, ADV)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF HEALTH AND
FAMILY WELFARE SERVICES,
M.S. BUILDING, BENGALURU-560 001.
2. THE STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF LAW AND
PARLIAMENTARY AFFAIRS,
VIDHANA SOUDHA,
BENGALURU-560 001.
3. THE COMMISSIONER

HEALTH & FAMILY WELFARE SERVICES,
GOVERNMENT OF KARNATAKA,
ANANDA RAO CIRCLE,
BENGALURU-560 009.

4. THE DIRECTOR
HEALTH & FAMILY WELFARE SERVICES,
GOVERNMENT OF KARNATAKA,
ANANDA RAO CIRCLE, BENGALURU-560 009.
5. THE DISTRICT MEDICAL OFFICER
DISTRICT HEALTH & FAMILY WELFARE
SERVICES, HASSAN DISTRICT,
HASSAN - 573135
6. THE DISTRICT AYUSH OFFICER
HASSAN DISTRICT,,
HASSAN - 573135
7. THE TALUK MEDICAL OFFICER
GOVERNMENT HOSPITAL,
CHANNARAYAPATNA,
HASSAN DISTRICT - 573135

... RESPONDENTS

(BY SRI:Y D HARSHA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE ISSUED BY THE R-7 TALUK MEDICAL OFFICER DATED 07.11.2015 AS PER ANNEXURE-N; DECLARE THAT THE PROVISIONS UNDER THE KARNATAKA PRIVATE MEDICAL ESTABLISHMENT ACT HAVE TO APPLICATION TO THE PRACTITIONERS WHO ARE PRACTICING IN THE AREA OF ALTERNATIVE MEDICINE SYSTEM AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT PASSED THE FOLLOWING:

O R D E R

The petitioner is before this Court assailing the notice dated 17.11.2015 impugned at Annexure-N to the petition. The petitioner is seeking for a issue of mandamus to declare that the provisions under the Karnataka Private Medical Establishment Act has no application to the practitioners who are practicing in the area of "*Alternative Medicine System*". In that light, the petitioner is seeking for a direction to respondent Nos.5 to 7 not to interfere with the profession of the petitioner.

2. The petitioner claims that he is a practicing "*Alternative Medicine System*" having obtained a certificate from the '*Khalsa Institute of Medical Sciences*', Bengaluru. In that light, it is contended that since the petitioner is practicing alternate form of medicine, the petitioner is not required to be registered under any enactment. It is in that light, second prayer has been made.

3. Though that be the position, Karnataka Private Medical Establishment Act, 2007 refers to the procedure in which the application has to be made and the registration

thereof to be considered by the Committee constituted for the said purpose under Section 4 of the Act. In a matter of present nature, where the petitioner refers to the registration certificate said to have been issued by the Institute it is for the Committee to consider whether the said course undertaken by the petitioner could be considered as recognized and in that light, the registration is to be granted or not. Further in that light, whether the nature of the course undertaken by the petitioner would require registration under the Act at all is also a matter to be examined by the Committee when the application filed by the petitioner is brought before it for consideration. Therefore, leaving open that aspect of the matter to be considered by the Committee, the petitioner is directed that the application shall be filed in terms of the provisions contained in the Karnataka Private Medical Establishment Act, 2007. The said application to be filed by the petitioner shall be placed before the Committee which is constituted in terms of Section 4 thereof and the application filed in terms of Section 5 thereof shall be considered and appropriate orders be passed by the Committee within three months

from the date of which the application is made. Until the application is considered and disposed of, the status continuing as on today shall be maintained for a period of three months and thereupon, the same shall be regulated in terms of the order to be passed by the Committee after consideration of the application submitted by the petitioner.

With the said direction, the petition stands disposed of.

Sd/-
JUDGE

*bgn/-