



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 33364 OF 2024 (GM-RES)

R

BETWEEN:

DR. A.A.MURALIDHARSWAMY
S/O LATE A.V.ALWAR
AGED ABOUT 56 YEARS
"SRI LAKSHMI CLINIC"
MODUR, BOOKANAKARE HOBLI
K.R PETE TALUK, MANDYA DISTRICT – 571 426.

...PETITIONER

(BY SRI NAIK N. R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
HEALTH DEPARTMENT
VIKASA SOUDHA, BENGALURU - 560 001.
2. THE DEPUTY COMMISSIONER
AND CHAIRMAN OF
REGISTRATION COMMITTEE FOR
KARNATAKA PRIVATE MEDICAL ESTABLISHMENT
MANDYA DISTRICT – 571 401.
3. THE DISTRICT HEALTH AND
FAMILY WELFARE OFFICER
MANDYA DISTRICT – 571 401.





4. THE DISTRICT SECRETARY
DISTRICT AYUSH OFFICER
MANDYA DISTRICT - 571 401.
5. THE TALUK HEALTH OFFICER
K.R.PETE GOVERNMENT HOSPITAL
K.R.PETE TALUK,
MANDYA DISTRICT - 571 401.

...RESPONDENTS

(BY SRI SHAMANTH NAIK, HCGP)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-2 TO ACCEPT THE APPLICATION DTD 25.03.2024 FILING FOR REGISTRATION WITHOUT ANY CLARIFICATION FROM THE R-4 AND PLACE THE SAME BEFORE THE R-2, WHICH IS PRODUCED AT ANNEXURE-E.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The issue in the *lis* is whether the petitioner, who is admittedly qualified with SSLC can call himself "Dr. A.A. Muralidharswamy" and practice medicine of any stream.



2. The petitioner is before this Court seeking a direction to accept his application dated 25.03.2024, for registration of his clinic under the Karnataka Private Medical Establishments Act, 2007 ('the Act' for short), without seeking any clarification from the fourth respondent and has sought a writ in the nature of *mandamus* directing the third respondent to place the application before the second respondent, to enable such registration. Above all, he would seek that there should be no interference in practicing Alternative System of Medicine in terms of the registration certificate, if so issued.

3. Heard Shri Naik N.R., learned counsel appearing for the petitioner and Shri Shamanth Naik, learned High Court Government Pleader appearing for the respondents.

4. Facts in brief, germane, are as follows:

The petitioner is said to have secured a certificate from the Indian Board of Alternative Medicine, registered with the Government of West Bengal. The averment in the petition is that, the petitioner has qualifications necessary to practice alternative system of medicine with all rights, honours and privileges and has also produced a certificate of the Indian



Board of Alternative Medicine. The petitioner further avers that he has secured Diploma in Community Medical Services with Essential Drugs and has established a clinic called Sri Lakshmi Clinic in Modur, Bookanakere Hobli, K.R.Pete Taluk, Mandya District – 571426 and is said to be practicing for several years.

5. The first respondent issues a notification on 23.01.2008 bringing in the Karnataka Private Medical Establishment Act, 2007. In terms of the said enactment, the petitioner, who was a private practitioner was required to register his name, as obtaining under the provisions of the Act and the Rules framed thereunder. The petitioner submits his application before the third respondent for such registration in terms of the Section 3 of the Act. The representation of the petitioner going unheeded, has driven the petitioner to this Court in the subject petition.

6. The learned counsel appearing for the petitioner would contend that in all identical cases, the co-ordinate benches of this Court have directed that the applications of those persons should merit consideration in terms of the Act and the Rules. He would seek to place reliance upon the orders



passed by the co-ordinate benches, which are all appended to the petition and would seek the similar relief at the hands of this Court.

7. The learned High Court Government Pleader appearing for the State would refute the submissions contending that the petitioner is not qualified and therefore, his application cannot merit consideration.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material available on record.

9. The afore-narrated facts are not in dispute. The Act is brought into effect in the year 2007 and the Rules thereon in the year 2009. Section 3 and Rule 5 which are germane for consideration, read as follows:

"Section 3. Registration of Private Medical Establishments.- On and after the appointed day, no Private Medical Establishment shall be established, run or maintained in the State except under and in accordance with the terms and conditions of registration granted under this Act:

Provided that a Private Medical Establishment in existence immediately prior to the appointed day shall apply for such registration within ninety days from the appointed day and pending orders thereon may continue to run or maintain till the disposal of the application."



"Rule 5. Conditions of registration:-

(1) The registration granted under these rules to every Private medical establishment shall be subject to the following conditions, namely:-

- (i) Premises shall be located in clean surroundings in a hygienic area.
- (ii) Adequate lighting and ventilation shall be ensured within the building and in the premises.
- (iii) Adequate number of Toilet Rooms, shall be provided, separately for male and female patients.
- (iv) Record Room adequate enough for Maintenance of Medical records as per code of Medical Ethics shall be provided.
- (v) Standard Bio-Medical Waste Disposal System shall be provided appropriate to the volume and nature of Waste generated.
- (vi) Accessibility to attending Doctors by Telephone, fax and e-mail through the Establishment shall be ensured to each patient/their attendants.
- (vii) CME-compliance mechanism as per the Karnataka Medical Council Act as amended from time to time shall be kept up.
- (viii) **Qualified and experienced staff appropriate to each field such as medical, diagnostic, therapeutic, observational and other care peculiar to each specialty and in appropriate numbers shall be appointed proportional to the number of patients ordinarily treated in a day.**
- (ix) Display conspicuously and in a prominent place or places.
 - (a) The name of the Establishment with names of the owners/managers.
 - (b) Registration certificate issued by the respective State Medical Council.



- (c) Form of License issued from the Karnataka Private Medical Establishments Board.
 - (d) System of Medicine practiced and services available.
 - (e) Working hours/timings of each Unit of the Establishment.
 - (f) Charges/Consultation/diagnosis/ treatment/ reports/services/other procedures and room rent/bed charges etc. in the form of Chart exhibited at a convenient place or places for.
 - (g) Printed brochures of the rates and tariff shall be supplied to the patients or their attendants on request.
 - (h) Names and qualifications of visiting consultants and Doctors employed for diagnosing/advising/treating the patients.
- (x) Generate, maintain and document Medical Records of each patient as per rules in force and supply to the patient or his parent/Guardian/Legal Representatives/ attendants on request.
- (xi) Give proper Discharge Summary to each patient along with the Bill of charges.
- (xii) Ensure that every Doctor employed by it would provide First Aid, would attend Medico-Legal Cases promptly and otherwise follow the Code of Medical Ethics, rigidly.
- (xiii) Inform the Doctors/Consultants on roll and see to it that professional responsibility rests with the Doctor/ Consultant in charge of the patient, and
- (xiv) Comply with such other directives issued by the Government or the District Registering Authority."

The petitioner claiming to be practicing medicine Ayurveda or otherwise submits an application before the third respondent. In terms of the Rules, the application should also



accompany the list of staffs in the establishment for it to be registered of whatever stream of medicine that the application would seek registration of. The application of the petitioner is as follows:

"GENERAL INFORMATION

Computer Registration Number: 49314
Application Number: 39378

Establishment Name: SRI LAKSHMI CLINIC
Address: Modur, Bookanakare Hobli K.R Pete
Taluk, Mandya District-571426"

The staff list appended to the application is very surprising, it reads as follows:

"STAFF LIST

Dr. A.A. Muralidharswamy	Proprietor	deepakdeepu54321@ gmail.com	9743041355
Dr. A.A. Muralidharswamy	Administration	deepakdeepu54321@ gmail.com	9743041355
Dr. A.A. Muralidharswamy	Full Time		9743041355

The petitioner addresses himself as a Doctor. He is the proprietor of Lakshmi clinic; he is the administrator of Lakshmi clinic and he is a full time employee of Lakshmi clinic. There is no other staff in the clinic. Therefore, the petitioner is running a one man clinic. The averment in the petition is as follows:

- "2. The petitioner submits that he has got the certificate from Indian Board of Alternative Medicines registered by the Government of West Bengal Act XXVI of 1961 based on Central



Government Act XXI of 1860. The petitioner has qualified requirement and certificate has been issued as he is qualified requirement and certificate has been issued as he is qualified Bachelor of Alternative system of Medicines with all the rights, honours and privileges pertaining to this certificate in testimony whereof Indian Board of Alternative Medicines and issued the same by Registrar, Alternative Medical Council of Calcutta on 09.01.2001 at Registration No.IBAM/RMP/A-14105 and in future called as Registration Certificate issued in favour of the petitioner from the Indian Board of Alternative Medicines and same is herewith produced and marked as **Annexure-A**. The petitioner has also completed qualification of Alternative Medicines and started the clinic with the permission of License issued by Town Municipality Authorities and also got the certificate from Karnataka State Pollution Control Board."

It is the averment in the petition that the petitioner has a certificate from the Indian Board of Alternative Medicines and on the strength of the said certificate, he has secured a Diploma in Community Medicine. The further averment with regard to acquisition of Diploma in the petition is as follows:

- "3. The petitioner further submits that in continuation of his practice in Diploma in Community in Medical Services with Essential Drugs by establishing the clinic called as "Sri Lakshmi Clinic", Modur, Bookanakare Hobli, K.R. Pete Taluk, Mandya District-571426 and he has practicing since from several years."



The petitioner claims to have been practicing medicine for several years and he describe himself as "**Dr. A.A. Muralidharswamy**".

10. Learned counsel appearing for the petitioner places reliance upon several orders passed by the Co-ordinate Benches of this Court, where this Court has directed the third respondent to consider those applications, in accordance with law and till such consideration, the functioning of the clinic should not be disturbed. He would seek to place reliance upon those very orders passed by the Co-ordinate Benches to buttress his submission that he is also entitled to the very relief that is granted by the Co-ordinate Benches. The Co-ordinate Benches in **W.P.No.28910/2015 c/w W.P.No.25188/2015** disposed on **31.01.2017** has held as follows:

"3. The petitioners are medical practitioners practicing in various forms of medical science and in which they have completed practical Training in various medicine courses from different institutions. The Karnataka Private Medical Registration Act was introduced in the year 2007.

4. The petitioners submitted applications for registration on various dates. Since, there is inaction on the part of respondent-concerned authority, petitioners were compelled to approach this Court in W.P.No.435/2015 and it was decided on 13/04/2015, while directing the 3rd respondent to take note of the



petitioners application for registration. Pursuant to such directions, impugned communications have been made by the 3rd respondent while canceling the petitioners polyclinic as unauthorized.

5. Perusal of impugned communications Annexures-'E' and 'J' dated 15/05/2015, it is crystal clear that, before cancellation of petitioners running polyclinic, petitioners have not been heard and they have not provided opportunity of hearing. Time and again courts have held that authority who takes any action or passes an order, which is affecting the right of a person, in such an event, the person who is likely to be affected should be heard in the matter. The 3rd respondent has failed to take note of relevant provisions namely, Section 7 of the Karnataka Private Medical Establishment Act, 2007. Thus, the 3rd respondent being a Class-I officer has failed to take note that an opportunity should have been given to each one of the petitioner. Since, petitioners were not afforded hearing and side tracked the aforesaid provisions and so also in not providing opportunity of hearing to the petitioners, impugned communications have been made. Issue before the 3rd respondent was whether petitioners application for Registration was in order or not? If the petitioners do not fulfill any of the criteria, in such circumstances notice should have been issued while calling for explanation from each of the petitioner before passing any adverse order. Accordingly, Annexures-'E' and 'J' dated 15.05.2015, are set aside.

6. Accordingly, the writ petitions are allowed.

7. Petitioner is entitled to continue the polyclinic till further action is taken by the concerned respondent.

8. The 3rd respondent/author of the document/Annexures-'E' and 'J' dated 15.05.2015, are liable to pay costs of Rs.5,000/- to the High Court Legal Services Committee, Bengaluru from his/her pocket and not from the Department for trivial error committed by him in not giving opportunity to the petitioner and so also in not applying his mind to the extent of Section (7) of the Karnataka Private Medical Establishment Act.

9. When an order is passed in violation of principle of natural justice is set aside, the fresh order can be



passed after complying with the principle of natural justice as held by the Apex Court in the case of Vipulbhai Mansinghbhai Chaudhary Vs. State of Gujarat & Another reported in (2017) 13 SCC 51.

10. Costs shall be remitted within a period of two months from the date of receipt of copy of this order reserving liberty to the 3rd respondent to proceed in accordance with law within a period of six months from the date of receipt of copy of this order.

In view of the disposal of main petitions, pending

I.A(s) if any, are disposed of."

In **W.P.No.62158/2016** disposed on **31.01.2017** has held as follows:

"3. The petitioner claims that he is a medical practitioner practicing in various forms of Medical Science. In view of the requirement under the Private Establishment Act, 2007 to register himself, the petitioner has made an application seeking registration. Since, the application has not been considered in accordance with law, the petitioner is before this Court. It is also averred that the respondents without considering the application are interfering with his practice and therefore, the application needs to be considered expeditiously.

4. The fact that the said application requires to be made and the same requires consideration by the 3rd respondent is not disputed by the respondents. In fact in similar set of circumstance, this Court in W.P.No.47102-104/11 and connected petition has by its order dated 14.03.2012 directed consideration of such application. In any event, in the instant case, when the petitioner has made an application under the relevant Act, there is a duty cast on the 3rd respondent to consider and dispose of the application. Without considering the application, certainly the 3rd respondent would not



be entitled to interfere in the practice of the petitioner.

5. In the event, the application requires consideration by any other authority, the 3rd respondent shall transfer the application on such authority, who shall consider and dispose of the application in accordance with the directions issued.

6. Hence, a direction is issued to the 3rd respondent to consider the application submitted by the petitioner as expeditiously as possible and in accordance with law. Such consideration shall not be later than three months from the date of furnishing a copy of this order. Needless to mention that until the consideration of the application, the practice of the petitioner shall not be interfered with.

The petition is disposed of accordingly."

He would seek an identical relief contending that he is also a Doctor, his clinic has to be registered and he is practicing alternative form of medicine.

11. In the light of the aforesaid submission and the orders passed by the Co-ordinate Benches quoted *supra*, this Court directed production of documents to the petitioner to demonstrate that the petitioner is qualified to get his clinic registered under the Act, as he has throughout described himself as "**Dr. A.A. Muralidharswamy**".



12. The matter was adjourned on three occasions to enable the petitioner to produce certificates, which would depict his qualification to practice any stream of medicine. The petitioner has failed to do so. On a pointed query, the learned counsel appearing for the petitioner, he is candid in accepting that the petitioner is only an SSLC and has not secured qualification in any stream, either Ayurveda, Allopathy or Unani, that would give him a right for registration under the Act or the Rules. The only certificate that the petitioner holds is a certificate said to have been issued by Indian Board of Alternative Medicine, that is wayback on 09.01.2001. The certificate does not inspire any confidence, as there is no qualification indicated in the certificate.

13. The learned counsel submits on the strength of the certificate, he has begun practicing 15years ago, but he has the qualification only of an SSLC. Therefore, the petitioner, who calls himself a Doctor is only SSLC and is practicing different kinds of medicines in the aforesaid clinic.

14. It is these quacks, who project themselves to be Doctors are endangering the life of innocent rural people, by



opening clinics in remote areas and hoodwinking them. Such instances have grown exponentially, which has resulted in mushrooming of such clinics all over, opened by the persons projecting themselves to be Doctors. It is un-understandable as to how the State is in blissful ignorance towards proliferation of such clinics without initiating any action. Therefore, it is for the State to immediately act, identify such clinics and pull the curtains down of those clinics, which are run by quacks like the case at hand, all in accordance with law. Swinging back to the case, it is plain and simple that the petitioner being an SSLC, cannot call himself a Doctor, much less, practicing as a Doctor. Therefore, no relief of the kind that is sought by the petitioner can be granted. The petition with the aforesaid observation should necessarily meet its dismissal.

15. For the aforesaid reasons, the following:

ORDER

- i) Writ petition is dismissed.
- ii) The Registry is directed to transmit this order to the Secretary of the Health and Family Welfare for appropriate action on those clinics, which are being run by persons, who are not qualified in



any stream of medicine. The action taken report
be filed before the Registry in this Court.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

JY
List No.: 1 Sl No.: 22
CT:SS