

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

MONDAY, THE 16TH DAY OF NOVEMBER 2020/25TH KARTHIKA, 1942

WP (C) .No. 19208 OF 2019 (A)

PETITIONER:

RAJESH K., AGED 43 YEARS,
S/O. GOVINDAN O.P., KANNOTH
KUNNABRATH HOUSE, MAKRERI P.O.,
BHAVODE, MUNDALLOOR P.O.,
KANNUR, PIN-670 822.

BY ADVS.
SRI. A. T. ANILKUMAR
SMT. V. SHYLAJA

RESPONDENTS:

- 1 STATE OF KERALA REP. BY
HOME SECRETARY TO THE GOVERNMENT,
SECRETARIAT,
THIRUVANANTHAPURAM, PIN- 695 001.
- 2 DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPUAM, PIN-695 001.
- 3 THE TRAVANCORE-COCHIN MEDICAL COUNCIL,
REPRESENTED BY ITS SECRETARY,
RED CROSS ROAD, TRIVANDRUM-695 001.

R1-R2 BY SR. G.P. SRI P. NARAYANAN
R3 BY SRI N. RAGHURAJ, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16.11.2020, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

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*Dated this the 16<sup>th</sup> day of November, 2020*

The petitioner is a citizen practising Electro-Homeopathy and Medicinal Herbalism Science, etc. He has approached this Court seeking to declare that he is entitled to practice Electro-Homeopathy and neither the respondents nor any person or persons have any manner of authority to interfere with the practice of the petitioner for the aforesaid system of medicine. The petitioner seeks a direction to the respondents not to interfere with the practice of Electro-Homeopathy by the petitioner.

2. Heard learned counsel for the petitioner, learned Government Pleader appearing for respondents 1 and 2 and learned Standing Counsel appearing for the 3<sup>rd</sup> respondent.

3. The issue involved in this writ petition came up for consideration before a Division Bench of this Court in W.P.

(C) No.19484/2008. The Division Bench, after considering the issue, observed as follows:-

"4. It is one of the fundamental principles of rule of law that a citizen is free to do anything not prohibited by law. Every State action must be supported by a statutory provision. If a citizen challenges a State action, the State must be able to show the strict legal pedigree of its action. Otherwise, the courts will invalidate that action. In this case, the respondents have not brought to our notice any law, which prohibits the practice of Electropathy/Electro-Homeopathy. So, the State or its agents shall not interfere with the same. But, the petitioners shall not use designations like 'Doctor' etc. They shall not practice Modern Medicine, Homeopathy or any of the Indian Systems of Medicine. They shall not act in violation of the provisions of the Kerala Abkari Act or Drugs and Cosmetics Act or other relevant Acts or Rules. If the petitioners continue their Electropathy/Electro-Homeopathy practice, without infringing any other provisions of law, the police shall not interfere with the same. Unless the petitioners commit some cognizable offence by practising Electropathy/Electro-Homeopathy, the police have no power or authority to interfere with their practice or summon them to the police station with a view to prevent their practice of Electropathy/Electro-Homeopathy."

It is clarified that this judgment will not affect the powers of the State or its agents to proceed in accordance with law, if the petitioners are found to act in violation of any statutory provision."

Therefore, the view of this Court is that a citizen is free to practice any profession not prohibited by law.

In view of the Division Bench judgment of this Court, this writ petition is disposed of directing that the police shall not interfere with the practice of the petitioner unless the petitioner commits some cognizable offence by practising Electro-Homeopathy. It is clarified that this judgment will not affect the powers of the State or its agents to proceed in accordance with law, if the petitioner is found to act in violation of any statutory provision.

Sd/-  
**N. NAGARESH, JUDGE**

aks/16.11.2020