

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WA No. 1260 of 2006(A)

1. NATIONAL INTEGRATED MEDICAL ASSOCIATION,
... Petitioner
2. DR. SREENIDHI SARALAYA,

Vs

1. THE STATE OF KERALA, REPRESENTED BY
... Respondent
2. THE CHIEF SECRETARY,
3. THE SECRETARY,
4. THE DRUGS CONTROLLER OF KERALA,
5. THE DISTRICT SUPERINTENDENT OF POLICE,
6. THE SECRETARY,
7. DR. KHADER K.A.,

For Petitioner :SRI.A.MOHAMED MUSTAQUE

For Respondent :SRI.P.K.MUHAMMED

The Hon'ble the Chief Justice MR.V.K.BALI
The Hon'ble MR. Justice C.N.RAMACHANDRAN NAIR

Dated :12/12/2006

O R D E R

V.K. BALI, C.J. & C.N.RAMACHANDRAN NAIR, J.

W.A.No.1260 OF 2006

Dated, this the 12th day of December, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

The appellants were the petitioners in the original lis. They are practising the system of Indian Medicine which includes Ayurveda, Siddha and Unani. It has been their case that in the northern-most district of Malabar called Kasaragod, graduates in Indian System of Medicine are entitled to practise in Allopathic Medicine also by virtue of the provisions contained in Section 17(2)(b) of the Indian Medicine Central Council Act, 1970, hereinafter referred to as the 'Act of 1970'. In short, even though the petitioners may be practising in the system of Indian Medicine, like Ayurveda, Siddha and Unani, they seek right to practice Allopathic Medicine also. Sections 17(2)(b) and 2(e) of the Act aforesaid dealing with the subject have already been reproduced by the learned Single Judge in the impugned

judgment. The respondents contested the cause of the petitioners on the grounds mentioned in the counter affidavit filed by them. Primarily it was urged by the respondents that modern advances mentioned in Section 2(e) of the Act of 1970 can only be advances in Ayurveda, Siddha and Unani and not Allopathic Medicine and further that, by virtue of Section 15(2)(b) of the Indian Medical Council Act, 1956 persons having the prescribed medical qualifications included in the schedules alone are eligible to practise Modern Medicine. It appears that the words 'modern advances' contained in Section 2(e) of the Act of 1970 would be referable to modern advances made in the respective fields of Ayurveda, Siddha and Unani. This is how the learned Single Judge also interpreted Section 2(e) of the Act of 1970. The learned Judge also placed reliance upon the decision of the Honourable Supreme Court in Mukhtiar Chand v. State of Punjab (AIR 1999 SC 468). The modern advances mentioned in Section 2(e) of the Act of 1970 cannot be interpreted to mean

Allopathic Medicines.

We do not find any merit in the writ appeal and the same is
dismissed.

V.K. BALI,
CHIEF JUSTICE.

C.N.RAMACHANDRAN NAIR,
JUDGE.

vns

