

(2022) 12 GUJ CK 0058

In the Gujarat High Court

Case No : R/Special Civil Application No. 14793 Of 2017

Jitendra Ramkrushna Sulke

APPELLANT

Vs

State Of Gujarat & 1 Other(S)

RESPONDENT

Date of Decision : 06-12-2022

Acts Referred:

Citation : (2022) 12 GUJ CK 0058

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Sachin D Vasavada, Hs Munshaw, Nikunt K Raval

Final Decision : Disposed Of

Judgement

Biren Vaishnav, J

1. The case of the petitioner is that he is practicing, promoting and developing a new field of medicine namely Electropathy / Electro Homeopathy. The case of the petitioner is that such a branch of medicine is promoted in light of the order dated 05.05.2010 of the Union of India.

2. Mr. H.S. Munshaw, learned advocate appearing for respondent no. 1 has in the affidavit-in-reply stated that the respondent no. 1 has not taken any action against the petitioner on any ground and that therefore the petition is required to be dismissed. The affidavit-in-reply that no action has been initiated against the petitioner.

3. In light of this stand of the respondents therefore for the present no cause survives in the petition. Even otherwise, the order dated 31.08.2010 passed in Letters Patent Appeal No. 1314 of 2009 which has been relied upon by a co-ordinate bench of this court in Special Civil Application No. 938 of 2014 on 29.06.2015 shall govern the case of the present petitioner. The relevant portion of the order dated 29.06.2015 reads as under:

"5. Based on the above, the petitioner has prayed to set aside the impugned

order. On one hand the said decision is not addressed to the petitioner, when learned advocate for the petitioner was asked as to what is the cause action for filing this petition, he struggled in vain to point out any fact or bundle of facts which could be said to be constituting a cause of action for this petitioner to file this petition and seek relief. The submission of learned advocate for the petitioner was that some other practitioners of Electropathy / Electrohomoeopathy have succeeded in their petition before this Court and the Division Bench in Letters Patent Appeal No. 1314 of 2009 and cognate matters passed order dated 31.8.2010. A copy of said order dated 31.08.2010 passed by the said Division Bench in Letters Patent Appeal is produced.

5.1 The relevant part of the aforementioned order in Letters Patent Appeal reads as under.

"5. We have heard counsel for the parties and perused the record. At this stage, we do not intend to decide the issue as raised in the appeals for the reasons hereunder:

(i) the order passed by the learned Single Judge both dated 22.06.2009 as quoted above being non-speaking orders, they cannot be allowed to continue.

(ii) The Central Government having taken a policy decision by its letter dated 05.05.2010, the respondent authorities, including the Surat Municipal Corporation and the State Government, are bound to give weightage to the same, and to act in accordance with law and the judgments of different High Courts and Supreme Court, as referred in the Central Government letter aforesaid.

6. For the reasons aforesaid, we set aside both the impugned orders dated 22.06.2009 passed by the learned Single Judge in two different writ petitions and remit the case with directions to the respondent Surat Municipal Corporation to notice the decision of the Central Government dated 05.05.2010 and pass appropriate reasoned order with regard to running of clinics by the petitioners. Order should be passed within two weeks from the date of receipt/production of the copy of this order. If any adverse decision is given, they are supposed to give grounds. The petitioners will file a representation enclosing a copy of the Central Government order dated 05.05.2010. Both the Letters Patent Appeals and Civil Applications stand disposed of with the aforesaid observations and directions. No costs."

6. The cause of action for the petitioner is missing. In absence of any cause of action, this petition could not be entertained nor the petitioner could be said to be an aggrieved person. Unless cause of action arises or subsists, invocation of prayer for relief could not be permitted. The petitioner relied on the aforesaid order passed in Letters Patent Appeal, but then, it goes without saying that whatever benefits flow from the said order, the petitioner is entitled to seek if he belongs to the same class of those petitioners/appellants and whatever is held in the said decision, may enure for the petitioner too.

7. With the aforesaid, this petition is disposed of. Notice stands discharged.”

4. In view of the above, present petition is disposed of. Notice is discharged.