
(2010) 10 KL CK 0027

In the High Court Of Kerala

Case No : R.P. No. 794 of 2010 (G) in Writ Petition (C) No. 38494 of 2003

Qualified Private Medical Practitioners and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Drugs and Cosmetics Act, 1940 — Section 18

Citation : (2010) 10 KL CK 0027

Hon'ble Judges : Jasti Chelameswar, C.J;P.N.Ravindran, J

Bench : Division Bench

Advocate : S. Sreekumar, for the Appellant; T.P.M. Ibrahim Khan, Asst. S.G, for the Respondent

Judgement

J. Chelameswar, C.J.—This review petition is filed seeking a review of the judgment dated 25th March, 2010 in W.P.(C) No. 38494 of 2003. The abovementioned writ petition was filed with the prayers as follows:

- a) issue a writ of mandamus or other appropriate writs, directions or orders declaring that the petitioners are not obliged to take out a drug licence u/s 18(c) of the Drugs and Cosmetic Act, 1940 and the Rules framed thereunder;
- b) issue a writ of mandamus or other appropriate writs, directions or orders declaring that the petitioners are exempted under Rule 123 of the Drugs and Cosmetic Rules, 1945 and Schedule K to the said Rules from the provisions of Chapter IV of the Drugs and Cosmetic Act, 1940;
- c) issue a writ of mandamus or other appropriate writs, directions or orders declaring that the provisions of Item 5 and 5A of Schedule K to the Drugs and Cosmetic Rules 1945, are ultra vires the Act apart from being unconstitutional;
- d) issue a writ of certiorari or other appropriate writs, directions or orders calling for the records leading upto Ext.P3 order issued by the 3rd respondent and quash the same;

e) issue a writ of mandamus or other appropriate writs, directions or orders restraining the respondents from insisting the private hospitals/clinics in the State of Kerala from obtaining drug licence u/s 18(c) of the Drugs and Cosmetic Act, 1940 and Rules framed thereunder;

f) issue a writ of mandamus or other appropriate writs, directions or orders directing the respondents to include private hospitals/clinics for exemption under Schedule K to the Drugs and Cosmetic Rules, 1945;

g) to award the costs of the petitioners of these proceedings; and

h) to grant such other reliefs as this Hon"ble Court may deem just and proper in the circumstances of the case.

2. By the judgment dated 25th March, 2010 a Division Bench of this Court on appropriate consideration of the materials on record dismissed the said writ petition. It appears that aggrieved by the said judgment the petitioners herein carried the matter to the Supreme Court by way of a Special Leave Petition. The said Special Leave Petition, according to the petitioners, is disposed of by order dated 16.8.2010. The relevant portion of the order of the Supreme Court reads as follows: Learned Counsel for the petitioners seeks leave of this Court to withdraw these Special Leave Petitions. Leave granted with liberty to the petitioners to approach the High Court and seek appropriate modification of the orders.

3. The petitioners who withdrew the SLP now seeks a review of the judgment of this Court. A reading of the grounds of review read more like grounds of an appeal. What the petitioners seek in the guise of review is rehearing of the matter which we are afraid is not permissible in exercise of the jurisdiction of review of this Court.

In the circumstances, the review petition is dismissed with costs which in our opinion should be exemplary, quantified at Rupees ten thousand payable to the Kerala Legal Services Authority.