

ITEM NO.9

COURT NO. 8

**SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS**

**Position for special leave to appeal (c.) Nos...CC>6116/2007
Judge ment and order dt. 12.12.06 in WA 1260/06
High Court of Kerala at Ernakulum)**

Central Council of Indian Medicine

Versus

State of Kerala & Ors.

(With Appln. For c/d in filing SLP)

Date: 23/7/2007 this matter was called on for hearing today.

CORAM:

HONIBLE MR. JUSTICE S.H. KAPADIA

HONIBLE MR. JUSTICE B. SUDERSHAN REDDY

For appellant (9) Mr. Shrish kumar Mishra, Adv.

For respondent (9)

UPON hearing counsel the court made the following

O R D E R

Delay honded.

The special leave petition is dismissed.

**(suman wadhws)
Court master**

**(Madhan Saxena)
court master**

**IN THE HIGH COURT OF KERALA AT ERNAKUALM
WA NO.1260 OF 2006 (A)**

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

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

The appellants were the petitioners in the original lis. They are practicing the system of Indian Medicine which includes Ayurvedic. Siddha and Unani. It has been their case that in the northern – most district of Malabar called kasargod, graduates in Indian system of Medicine are entitled to practice in Allopathic Medicine also by virtue of the provision 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 practicing in the system of Indian Medicine, like Ayurvedic, Siddha and Unani, they seek right to practice Allopathic Medicine also. Section s17 (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 Ayurvedic, 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 practice Modern Medicine. It appears that the word's modern advances' contained in Since 2(e) of the Act of 1970 would be preferable to modern advances made in the respective fields of Ayurvedic, 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 Honorable Supreme Court in Kukhtiar 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.

W.A.NO.1260/2006

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