

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

14/11/18 2018
SUPREME COURT OF INDIA

CIVIL APPEAL NO. 4642 OF 2018
(Arising out of S.L.P.(C) No.20134 of 2017)

Smt. Sutapa Sinha

Appellant(s)

Versus

State of U.P. and Others

Respondent(s)

O R D E R

Leave granted.

Heard Mr. Pankaj Bhatia, learned counsel for the appellant and Ms. Aishwarya Bhati, learned Additional Advocate General for the State of U.P.

Though many an aspect was urged before the High Court and it has also addressed the same by the impugned order, yet the singular issue that has been canvassed before us pertains to whether there has been ban in practicing Electro Homeopathy as an alternative therapy.

A similar matter had come up before this Court in S.L.P.(C) No.23572 of 2009, wherein a counter affidavit was filed by the Union of India stating that there was no ban on the practice of Electro Homeopathy and on that basis the special leave petition was withdrawn.

Signature valid

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Reason:

Learned counsel for the appellant has also brought to our notice Office Memorandum dated 15th December, 2011 issued by the Uttar Pradesh Government Medicine Section - 6, which states that there is no proposal to stop the appellant from practicing in electropathy or imparting education, as long as the same is done with the provisions of the order No.R.14015/25/96-U 85 H (R) (Pt) dated 25.1.2003. There is no dispute that the said system of therapy has not yet been recognized for the purpose of conferring any diploma or degree.

In view of the aforesaid, no institution can confer a diploma or degree in Electro Homeopathy. However, as this Court has observed on an earlier occasion that there is no ban, the appellant can always practice Electro Homeopathy as an alternative therapy, but no effort can be made to confer diploma or degrees unless there is a statutory provision permitting the same. We may hasten to clarify that there are alternative therapies like aroma therapy, stone therapy, music therapy, hypnotherapy, touch therapy and colour therapy and they are actually non-invasive and in no way relate to administration of medicine. Therefore, we are disposed to think that the Union of India has not banned them.

In view of the aforesaid analysis, we only modify the order passed by the High Court to the extent that the appellant can provide an alternative therapy so long as it is not banned by any competent authority. Without possessing a degree or diploma recognized by a legislation enacted by the competent legislature, the appellant would not be entitled to practise medicine. We also clarify that no degree or diploma can be conferred otherwise than what is permitted or recognised in law. The undertaking furnished to the High Court shall be complied with.

With the aforesaid modification in the order passed by the High Court, the appeal stands disposed of. There shall be no order as to costs.

-sd-
.....CJI.
[Dipak Misra]

-sd-
.....J.
[A.M. Khanwilkar]

-sd-
.....J.
[Dr. D.Y. Chandrachud]

New Delhi,
May 01, 2018.

