

N THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) No.OF 2020

IN THE MATTER OF:

Dr. AKB SADBHAVANA MISSION
SCHOOL OF HOMEOPHARMACY ...PETITIONER(S)

Versus

MINISTRY OF AYUSH & Ors.RESPONDENT(S)

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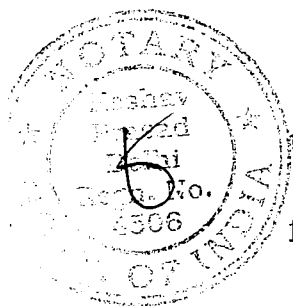
MINISTRY OF AYUSH & Ors.RESPONDENT(S)

**AFFIDAVIT DATED 23.11.2020
IN REPLY ON BEHALF OF RESPONDENT NO.1
UNION OF INDIA, MINISTRY OF AYUSH**

I AJJ Kennedy,

working as Under Secretary to Government of
India, Ministry of AYUSH, AYUSH Bhawan, B-Block, INA,
New Delhi-110023, do hereby solemnly affirm and state as
under:-

1. That I have perused the subject petition and understood the content thereof. Further I am well acquainted with the facts and circumstances of the present case and in my official capacity I am duly authorized and competent to swear the



present affidavit on behalf of the Respondent No.1 (Union of India, Ministry of AYUSH).

2. I state and submit that the petitioner has filed the instant SLP challenging the decision of the Hon'ble High Court of Kerala dated 21.08.2020 passed in WP. No. 9495 of 2020. Vide the said judgment the Hon'ble High Court has clarified and directed that if any qualified doctor practicing AYUSH medicine, makes any advertisement or prescribes any drugs or medicine, as a cure for Covid-19 disease, except those specifically mentioned in advisory dated 06.03.2020, then it would be open for the state authorities to take appropriate action under the provisions of the Disaster Management Act, 2015, and other relevant/applicable orders of the Governments, both Central as well as State, issued from time to time.

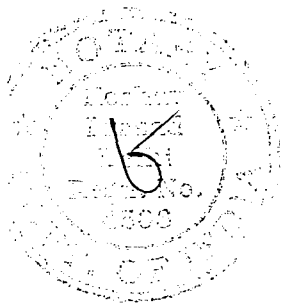


3. It is respectfully stated and submitted that the Hon'ble High Court has further directed that the AYUSH medical practitioners would prescribe only those tablets or mixtures which has been specifically directed in this behalf by the

Central Government through its guidelines and the said prescription shall be given only as an immunity booster and not as cure for COVID-19. The Hon'ble High Court has further directed the AYUSH medical practitioners not to violate the Government order dated 06.03.2020 and in this regard medical/police department are also directed to monitor the action of AYUSH practitioners.

4. That the petitioners have challenged the Judgement of the Hon'ble High Court on the grounds that it is contrary to the advisory issued by the Government of India time to time.

5. At the outset, I respectfully state and submit that the operative portion of the Hon'ble High Court's judgment that the AYUSH medical practitioners would prescribe only those tablets or mixtures which has been specifically directed in this behalf by the Central Government through its guidelines and the said prescription shall be given only as an immunity booster and not as cure for COVID-19 and that qualified doctor practicing AYUSH medicine, should not make any advertisement or prescribe any drugs or medicine, as a cure

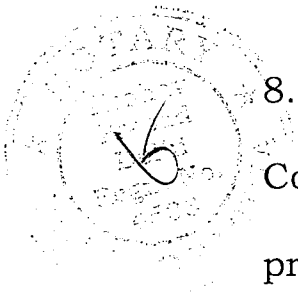


for Covid-19 disease is correct interpretation of the guidelines issued by Ministry of AYUSH.

6. At the further outset, it is also submitted that it is matter of fact and concern that the pandemic of Corona Virus (Covid-19) has been reported and has affected the whole world and till date no vaccine or cure has been launched for effective treatment of the Covid-19.

7. Thus keeping in view this unprecedented and unforeseen precarious situation, the health system preparedness of the country and the anticipated patient/conventional doctor ratio of the country, the Ministry of AYUSH decided to augment and strengthen the Covid medical response of the country by using the traditional Healthcare system of the country, which included Ayurvedic practices, Homeopathy practices as well as Unani practices.

8. It is submitted that as per the finding of the Research Councils under Ministry of AYUSH, these traditional practices provided lifestyle advocacies to boost immunity

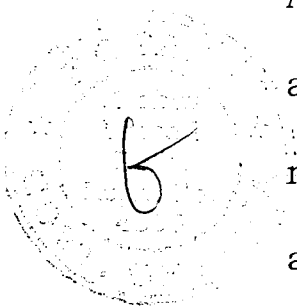


which could have played pivotal role in prevention of various kind of infectious diseases. Since, it was found that the corona virus outbreak mainly involved Respiratory system, therefore, to deal with the same as a preventive measure the Ministry of AYUSH issued its advisory dated 29.01.2020 providing as under, in so far as homeopathic practices were concerned:-

“• As per the Homoeopathy Practices the following Preventive Management Steps are suggested

The Group of Experts inter-alia has recommended that homoeopathy medicine Arsenicum album 30 could be taken as prophylactic medicine against possible Corona virus infections, which has also been advised for prevention of ILI. It has recommended one dose of Arsenicum album 30, daily in empty stomach for three days. The dose should be repeated after one month by following the same schedule incase Corona virus infections prevail in the community.”

9. It is submitted that vide the said advisory Ministry of AYUSH had clearly provided that administration of the aforesaid medicine was to be done only as a preventive measure and the same should not be claimed as a treatment advice for the Corona virus infection. The advisory dated



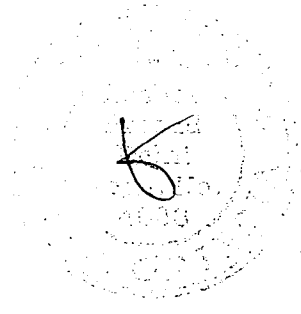
29.01.2020 mentioned how to protect oneself from COVID and how to stay healthy. In the advisory, in addition to maintaining hygiene like hand wash, use of mask etc. simple home remedies and simple remedies from various AYUSH systems including Homoeopathy were also suggested. A copy of the advisory dated 29.01.2020 is annexed hereto and marked as **Annexure- A (Pg. No. 13 to 14)**.

10. I state and submit that thereafter the Ministry of AYUSH with recommendation from Research Councils under its administrative control has come out with an advisory with more specific suggestions on augmentation of general Immunity of people and about possible AYUSH interventions including interventions from Homoeopathy wherever required. The said advisory was issued in coordination with Health departments of the States / UTs and was also communicated to all States/UT vide letter dated 06/03/2020 for implementation through AYUSH personal and facilities as per the prevailing system of medicine in the respective States/Ut. A copy of the advisory dated 6.03.2020 is annexed



hereto and marked as **Annexure-B (Pg. No 15 to 25)** In addition to the above the Ministry of AYUSH has also issued “Guidelines for Homoeopathic Practitioners for COVID 19” which is annexed hereto and marked as **Annexure- C (Pg No. 26 to 37)**

11. A bare perusal of the said advisory would show that that the focus of the said guidelines was to lay down a medically accepted and time tested intervention which would boost the immunity of the body, which was critical in the human response to infectious disease. The said guidelines were issued with a holistic approach of AYUSH systems of medicine focusing on prevention through lifestyle modification, dietary management, prophylactic interventions for improving the immunity and simple remedies based on presentations of the symptoms.



12. It is submitted in the said guidelines it has been emphasized that the preventive aspect of Homoeopathy are well known, and historically, Homoeopathy has reportedly been used for prevention during the epidemics of Cholera,

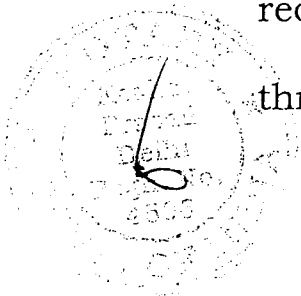
Spanish Influenza, Yellow fever, Scarlet fever, Diphtheria, Typhoid etc. While noting and acknowledging the role played by homoeopathy medical practices for preventing the spread of diseases like Chikungunya, Dengue Fever, Japanese Encephalitis and Cholera with good results, the Ministry of Ayush prescribed the intervention and preventive management steps under the homeopathic practices at the following three stages:-

- (a) Preventive and prophylactic;
- (b) Symptom management of COVID-19 like illnesses
- (c) Add on Interventions to the conventional care

For ready reference of this Hon'ble Court the relevant part of the advisory dated 6.03.2020 permitting the homeopathic doctors/medical practitioner to intervene and recommend preventive medication during the aforesaid three stages is as under:-

i. Preventive and prophylactic:

.....
Homoeopathy:



Arsenicum album 30, daily once in an empty stomach for three days. The dose should be repeated after one month by following the same schedule till Coronavirus infections prevalent in the community. In one of the studies Arsenic album as one of the constituents in a formulation affected HT29 cells and human macrophages. Also, it showed ..NF-KB hyperactivity (reduced expression of reporter gene GFP in transfected HT29 cells), ...TNF- α release in macrophages. Arsenic album is a common prescription in the cases of respiratory infections in day to day practice.

ii. Symptom management of COVID-19 like illnesses

Homoeopathy

Various medicines which found to be effective in treating flu like illness are Arsenicum album, Bryonia alba, Rhus toxico dendron, Belladonna Gelsemium Eupatorium perfolia tum. All these medicines should be taken in consultation with qualified physicians of respective AYUSH systems.

iii. Add on Interventions to the conventional care

Homoeopathy

Medicine mentioned under Symptom management of COVID-19 like illnesses" under subhead Homoeopathy can also be given as add on to conventional care.

All these medicines should be taken in consultation with qualified physicians of respective AYUSH systems.

13. I further respectfully state and submit that the aforesaid

Guidelines for Registered Practitioners of respective system of

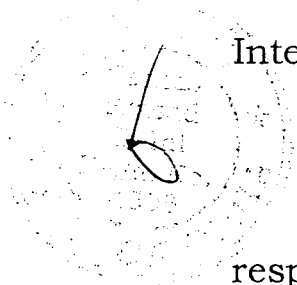
AYUSH including Homoeopathy have been prepared by

Director Generals of Research Councils and Directors of

National Institutes with their team of experts and after vetting by the Interdisciplinary AYUSH Research and Development Task Force of Ministry of AYUSH.

14. Further, the Ministry of AYUSH while issuing the aforesaid advisory(ies)/ guidelines to the AYUSH Practitioners has clearly mentioned that all these medicines are to be administered as a preventive measure or as an add on to the conventional treatment and should not be treated and/or prescribed as a cure.

15. Thus it is respectfully submitted that the Ministry of AYUSH has clearly suggested the drugs which can be prescribed by a homeopathic medical practitioner for (i) preventive and prophylactic use; (ii) for symptom management of COVID-19 like illnesses; and (iii) add on Interventions to the conventional care.



It is submitted that beyond the aforesaid drugs, in the respectful submission of the Ministry of AYUSH, it is not recommended that any other drug should be prescribed by

the homeopathic medical practitioner, as on date, until and unless, the same is prescribed by the answering respondent.

16. In addition to the above, it is respectfully reiterated that Ministry of AYUSH has clearly permitted the homeopathic medical practitioners to prescribe the drugs, as mentioned in the guidelines, as an add-on drug to the conventional treatment for patients who have been tested Covid positive and are undergoing conventional treatment.

Thus in the respectful submission of the answering respondent, prescription of the medication prescribed by the Ministry of AYUSH to Covid positive patients as an add-on treatment is permitted, and therefore, any contention to the contrary stating that homeopathic medical practitioner cannot prescribe any treatment to Covid 19 positive patients, even as an add-on to conventional treatment is liable to be rejected. It is stated that the only embargo is that the said medicines should not be administered or advertised as a cure but should be administered as preventive measure/immunity booster or as an add-on to the conventional treatment.

17. It is further respectfully submitted that constant researches are going on in the respective systems of AYUSH including Homoeopathy. The Ministry of AYUSH craves leave of this Hon'ble court to include such medicines which in the opinion of the Ministry can be used (i) for preventive and prophylactic use; (ii) for symptom management of COVID-19 like illnesses; and (iii) for add on Interventions to the conventional care, as and when the benefits of such interventions are proved through proper channel of research and accepted by the present Ministry.

VERIFICATION:

Verified in Delhi on this day of2020 that the contents of above mentioned affidavit are true and correct on the basis of official Records and to the best of my knowledge and belief. Nothing has been concealed therein. No part of it is false.

ए. जे. जे. कनेडी

DEPONENT

अवर सचिव/Under Secretary

आयुष मंत्रालय, भारत सरकार

Ministry of AYUSH Govt. of India

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