



WEB COPY

W.P.No.13389 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.P.No.13389 of 2015

1. G.Karthikeyan
2. S.Sathiachandran
3. S.Xavier Felix
4. A.J.Jawad
5. J.Saravana Vel
6. S.Shankar

.. Petitioners

Vs.

1. The Registrar General
Madras High Court, Chennai – 600 104.
2. The Bar Council of Tamil Nadu and Puducherry
Represented by its Secretary
Chennai – 6001 104.
3. State of Tamil Nadu
Rep. by its Secretary to Government
Registration Department
Secretariat, Chennai – 600 009.
4. The Madras High Court Advocates Association
Rep. by its Secretary
High Court Buildings
Chennai – 600 104.



W.P.No.13389 of 2015

WEB COPY

5. The Law Association
Rep. by its President, High Court Campus
Chennai – 600 104.
6. The Women Lawyers Association
Rep. by its Secretary
High Court Campus, Chennai – 600 104.
7. The Madras Bar Association
Rep. by its Secretary
High Court Buildings
Chennai – 600 104.
8. N.Suriyamuthu
9. K.Muthuramalingam
10. T.Kalaimani
11. G.Mohanakrishnan
12. Prasanna
13. Margaret
14. Louisal
15. S.Thamilarasi
16. Jayasudha
17. A.Parveen
18. Beula Johnson
19. The Principal Secretary to the Government
(Home, Public and Excise Department)
Government of Tamil Nadu
Chennai – 600 009.
20. The Director General of Police
Government of Tamil Nadu
Dr.Radhakrishnan Salai, Mylapore
Chennai – 600 004.
21. The Chief Secretary to Government
Government of Puducherry, Main Building
Chief Secretariat, Puducherry – 605 001.
22. The Director General of Police



W.P.No.13389 of 2015

WEB COPY Government of Puducherry,
No.2 Dumas Street, White Town
Puducherry – 605 001.

[R8 to R10 impleaded vide order dated 14.10.2015 in
M.P.Nos.2 to 4 of 2015 in W.P.No.13389 of 2015]

[R11 impleaded vide order dated 18.04.2016 in
M.P.No.6 of 2015 in W.P.No.13389 of 2015]

[R12 to R18 impleaded vide order dated 12.07.2019
in W.P.No.13389 of 2015]

[R19 to R22 *suo motu* impleaded vide
order dated 02.07.2024
in W.P.No.13389 of 2015]

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of mandamus, directing the first respondent to issue appropriate directions either in the form of guidelines or regulations to the respective recognized Associations, viz., the respondents 4 to 7 relating to the manner in which elections ought to be conducted peacefully and democratically and also to provide for consequential penal action in case of violations of the guidelines and/or regulations and pass appropriate orders to direct the Associations to function as per the bylaws and without indulging in any activity prohibited by law, taking into consideration the petitioners' representation dated 25.03.2015.

For the Petitioners : Mrs.B.S.Ajeetha

For the Respondents : Mr.S.Haja Mohideen Gisthi
for R1

Mr.C.K.Chandrasekar
Standing Counsel
for R2



WEB COPY



W.P.No.13389 of 2015

Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R3

Mr.Mahaveer Sivaji
for R4

Mr.T.V.Krishnakumar
for R5

Mrs.S.Sivakami
for R6

Mr.S.Siva Shanmugam
for R7

No appearance for R8 to R11

Ms.Prasanna
(Party-in-Person)

Ms.L.Margaret
(Party-in-Person)

Ms.Louisal
(Party-in-Person)

Ms.S.Tamilarasi
(Party-in-Person)

Ms.Jayasudha
(Party-in-Person)

Ms.A.Parveen
(Party-in-Person)
Ms.Beula Johnson



WEB COPY



W.P.No.13389 of 2015

(Party-in-Person)

Mr.T.Chezhiyan
Additional Government Pleader
for R19

Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)
for R20

Mr.R.Sreedhar
Additional Govt. Pleader (Puducherry)
for R21 and R22

ORDER

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The writ at large has been instituted seeking a mandamus to direct the first respondent to issue appropriate directions either in the form of guidelines or regulations to the respective recognized Associations, viz., the respondents 4 to 7, relating to the manner in which elections are ought to be conducted peacefully and democratically and also to provide for consequential penal action in case of violations of the guidelines and/or regulations and to direct the Associations to function as per the Bylaws and without indulging in any activity prohibited by law, taking into consideration the



W.P.No.13389 of 2015

petitioners' representation dated 25.03.2015.

2. Learned counsel for the petitioners, *Tmt.B.S.Ajeetha*, would contend that the recognized Associations are involving in irregularities, thereby causing concern to the lawyers practicing in the High Court campus. They are using their political affiliations inside the Court campus, which amounts to interference with the Administration of Justice. Thus, the writ petition came to be instituted for issuing guidelines to the Bar Council of Tamil Nadu and Puducherry and to the recognized Associations, *viz.*, the respondents 4 to 7.

3. On account of efflux of time, many developments occurred. This Court passed interim orders so as to ensure maintenance of peace and tranquility both inside the Associations and in Court campus. Based on the interim orders, the Registrar General, High Court of Madras, also issued circulars, to maintain good conduct. We are not called upon to resolve those issues, which were raised at the time of filing of the Writ proceedings. About 9 years lapsed, but,



W.P.No.13389 of 2015

certain issues still remain.

4. It is brought to the notice of this Court that few recognised Advocates Association across the State of Tamil Nadu and Union Territory of Puducherry are not conducting elections to their respective Associations on expiry of the term as per the bylaws. Not conducting elections as per the bylaws is not only violation of the bylaws of the association, but violative of the basic principles of democracy. The rights of the members are infringed, if the elections are not conducted on expiry of the term as stipulated under the bylaws. The recognised associations are bound to function in accordance with the provisions of the Advocates' Act, Bar Council of India Rules and its instructions and also the guidelines / instructions by the Judicial administration. In the event of failure, the Bar Council of Tamil Nadu and Puducherry is empowered to de-recognise the association by affording an opportunity to such associations.

5. Independency of the lawyers to practice law is of paramount important and to be protected. Lawyers are expected to maintain good conduct both inside the Court premises and outside. Section 35



W.P.No.13389 of 2015

of the Advocates' Act, 1961 in an unequivocal terms contemplates actions for professional and other misconducts are actionable. It is not only the professional misconduct but also the other misconduct, which can be widely interpreted so as to ensure that the conduct of the Advocates both inside the Court premises and outside are being maintained. The very spirit of Section 35 is to protect the dignity and decorum of the legal profession and its nobility.

6. *Mr.C.K.Chandrasekar*, learned Standing Counsel for the Bar Council of Tamil Nadu and Puducherry would bring to the notice of this Court that the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015, provides power to the Bar Council to initiate action against recognized Associations, if they have involved in commission of irregularities or illegalities.

7. It is needless to state that the State Bar Council is empowered to initiate all appropriate actions by following the due process. The recognised associations are duty bound to conduct their affairs in a lawful manner contemplated under the Act and Rules as



W.P.No.13389 of 2015

WEB COPY

well as the guidelines / instructions issued by the Bar Council of Tamil Nadu and Puducherry and Judicial administration. In the event of failure, actions are to be initiated to de-recognise the association, in view of the fact that they are enjoying the public premises for running the association.

8. The State Bar Council and the Bar Council of India are empowered to initiate suo-motu proceedings in the event of any misconduct, illegality, irregularity, etc., if any committed by the Advocate or the recognised associations. Therefore, the Bar Council is duty bound to perform their duties in a diligent and vigilant manner to maintain professional standards. The Bar Council is a *parens patriae* and expected to maintain high standards, transparency and integrity in their administrative affairs. The Bar Council administration is expected to be beyond any doubt and under Section 6 of the Advocates' Act, the Bar Council is duty bound to protect several thousands of lawyers and to safeguard their professional interest. In the event of any complaint against the members of the Bar Council or the staff members for illegalities, irregularities or corrupt practices, such complaints are to be viewed seriously and all appropriate



W.P.No.13389 of 2015

actions are to be initiated to prosecute by following the due process.

9. Commission, omission or failure on the part of the Bar Council administration are to be viewed seriously, since practising law is a Fundamental Right of a lawyer under the Constitution of India. Therefore, the Bar Council is duty bound to protect the Fundamental Rights of the lawyers enrolled in the State Roll. The nature of responsibility and accountability of the Bar Council are high in nature and therefore their lapses, illegality, commission are to be viewed seriously and the members, staff members or any other person responsible and accountable are liable for prosecution, if any misconduct, corrupt activities, misappropriation, illegalities are identified.

10. Advocates are enjoying special status in the society. They are Officers of the Court. This exactly is the reason Section 35 of the Advocates' Act, 1961 deals with not only the professional misconduct but other misconducts also.

11. The allegations raised in the present writ petition is about



W.P.No.13389 of 2015

WEB COPY

conduct of election in the recognised associations by the Bar Council of Tamil Nadu and Puducherry. The Bar Council is empowered to initiate actions against the recognised association on account of efflux of time, this Court is not inclined to go into such allegations raised against the recognised association. However, this Court would emphasis that the elections to the recognised association are to be conducted on expiry of term without any default.

12. The local Bar Associations are recognised by the Bar Council of Tamil Nadu and Puducherry. The recognised Associations are duty bound to ensure peaceful functioning of the Courts and the judicial administration in general. The Bar Associations are not only enjoying the public premises, but also availing the infrastructure and other facilities at the public cost. Judicial Department is allotting space for the recognised Associations subject to availability in Court premises. Therefore, the recognised associations are expected to maintain good atmosphere and conduct themselves in compliance with the Acts and Rules and the guidelines issued by the Bar Council of Tamil Nadu and Puducherry and also the judicial administration.



W.P.No.13389 of 2015

WEB COPY

13. The Bar Council of Tamil Nadu and Puducherry is mandated under the Rules to oversee the functioning of these recognised associations across the State of Tamil Nadu and Union Territory of Puducherry. It is their duty to ensure that the recognised associations function in compliance with the Act and Rules in force. The Bar Council is empowered to initiate actions against the recognised associations or its members in the event of any complaint or information about irregularity, illegality, commission or omission, etc.

14. The recognised associations are registered associations under the Tamil Nadu Societies Registration Act, 1975. Therefore, these associations are bound to comply with the provisions of the Societies Registration Act and Rules. Association registration and its functioning must be intact with reference to the Statutes and Rules in force. The registered societies have got duties and responsibilities under the Societies Registration Act. In the event of any dispute, complaint is maintainable before the District Registrar for conducting an inquiry under the Act.

15. Therefore, the responsibilities of these associations are two



W.P.No.13389 of 2015

WEB COPY

fold, one towards the judicial administration and Bar Council and the other is under the provisions of the Societies Registration Act. The twin responsibilities are to be complied with simultaneously, failing which, they are liable for actions by the Bar Council of Tamil Nadu and Puducherry and by the competent authorities under the Societies Registration Act. The registration of the association, filing annual returns, members list, accounts and all other requirements as contemplated under the Societies Registration Act and Rules must be kept intact, failing which, the members are at liberty to initiate action against the office bearers and members, who all are responsible and accountable. The Bar Council is also empowered to initiate all appropriate action in the manner known to law on receipt of complaint or information.

16. Large scale of frequent allegations are made against the recognised association inside the Court complexes across the State of Tamil Nadu and Union Territory of Puducherry. The High Court complex is now declared as high security zone and the Central Industrial Security Force (CISF) is guarding the High Court premises. After the CISF deployment, the Court functionings are going on in a

Page 13 of 22



W.P.No.13389 of 2015

peaceful manner. Similar atmosphere must be created in all District Courts complexes across the State of Tamil Nadu and Union Territory of Puducherry by deploying the State Police by the State of Tamil Nadu and Union Territory of Puducherry.

17. Adequate protection must be provided by the State for the Court complexes to maintain important original records, evidences, materials, etc. As of now there is no sufficient protection in the Court complexes. The Night Watchman guarding the Court complexes would be insufficient to deal with the current day situations and to maintain complete peace and tranquillity in Court complexes. Therefore, it is imminent to provide Police protection to all the Court complexes by the State Police. The District Judiciary and the learned Principal District Judges and other learned Judges are finding it difficult to maintain the Court complexes, since there is no Police protection and several incidents are brought to the notice of the High Court about the unruly behaviour of litigants and misconducts by few lawyers.

18. In this context, we are inclined to *suo motu* implead the Principal Secretary to the Government (Home, Public and Excise
Page 14 of 22



W.P.No.13389 of 2015

WEB COPY

Department), Government of Tamil Nadu, Chennai – 600 009, as respondent 19, the Director General of Police, Government of Tamil Nadu, Dr.Radhakrishnan Salai, Mylapore, Chennai – 600 004, as respondent 20, the Chief Secretary to Government, Government of Puducherry, Main Building, Chief Secretariat, Puducherry – 605 001, as respondent 21 and the Director General of Police, Government of Puducherry, No.2, Dumas Street, White Town, Puducherry – 605 001, as respondent 22.

19. *Mr.T.Chezhiyan*, learned Additional Government Pleader accepts notice for respondent 19, *Mr.S.Vinoth Kumar*, learned Government Advocate (Criminal Side) accepts notice for respondent 20 and *Mr.R.Sreedhar*, learned Additional Government Pleader (Puducherry), accepts notice for respondents 21 and 22.

20. In view of the facts and circumstances, this Court is inclined to issue the following directions:

i. The Bar Council of Tamil Nadu and Puducherry is



WEB COPY



W.P.No.13389 of 2015

directed to monitor that the elections to all the recognised associations are conducted in all Court Complexes and in the District Judiciary across the State of Tamil Nadu and Union Territory of Puducherry on expiry of the term of the office bearers as per the bylaws. The elections must be conducted in accordance with the bylaws approved by the competent authority under the provisions of the Registration Act.

ii. In the event of failure by any recognised Associations to conduct election on expiry of term of the office bearers as stipulated in the bylaws, the Bar Council of Tamil Nadu and Puducherry shall appoint a Special Officer to take over the administration of the association and conduct elections in a democratic manner and by following due process within a period of four (4) months from the date of appointment of the Special Officer. The Special Officer shall be appointed only for the



W.P.No.13389 of 2015

WEB COPY

purpose of conducting elections and the term of the Special Officer shall not exceed four months from the date of appointment.

iii. There shall not be violation of the "One Bar One Vote" Rule, which has been approved by this Court;

iv. The Director General of Police, Mylapore, Chennai and Director General of Police, Government of Puducherry are directed to provide police protection through jurisdictional Police Stations, at the request of the Bar Council of Tamil Nadu and Puducherry to conduct elections in a peaceful manner in recognised association in a occupation of space inside the Court Complexes.

v. If the elections are not conducted on account of serious illegalities and irregularities or for any other extraneous reasons, the Bar Council of Tamil nadu and Puducherry shall initiate all appropriate actions



W.P.No.13389 of 2015

WEB COPY

to de-recognise the association by providing an opportunity to those association.

vi. The de-recognised associations are not eligible to occupy public premises in Court complexes. Therefore, in the event of any de-recognition of any association, the Registrar General of Madras High Court or the Learned Principal District Judge concerned are directed to initiate appropriate actions to resume space allotted to such associations inside the Court complexes.

vii. The Principal Secretary to the Government (Home, Public and Excise), Government of Tamil Nadu, the Director General of Police, Government of Tamil Nadu, the Chief Secretary to Government, Government of Puducherry and the Director General of Police, Government of Puducherry, are directed to conduct security audit and deploy required number of Police force to all the Court complexes across the



W.P.No.13389 of 2015

WEB COPY

State of Tamil Nadu and in Union Territory of Puducherry within a period of four (4) weeks from the date of receipt of a copy of this order.

22. With the above directions, the writ petition stands disposed of. There shall be no order as to costs.



W.P.No.13389 of 2015

WEB COPY 23. Registry is directed to list the matter for reporting compliance before this Bench on 03.10.2024.

(S.M.S., J.)

(C.K., J.)

02.07.2024

Index : Yes/No

Neutral Citation : Yes/No

drm/Jeni

To:

1. The Registrar General
Madras High Court, Chennai – 600 104.
2. The Secretary
The Bar Council of Tamil Nadu and Puducherry
Chennai – 6001 104.
3. The Secretary to Government
State of Tamil Nadu
Registration Department
Secretariat, Chennai – 600 009.
4. The Principal Secretary to the Government
(Home, Public and Excise Department)
Government of Tamil Nadu
Chennai – 600 009.
5. The Director General of Police
Government of Tamil Nadu
Dr.Radhakrishnan Salai, Mylapore
Chennai – 600 004.

Page 20 of 22



W.P.No.13389 of 2015

WEB COPY

6. The Chief Secretary to Government
Government of Puducherry, Main Building
Chief Secretariat, Puducherry – 605 001.
7. The Director General of Police
Government of Puducherry,
No.2 Dumas Street, White Town
Puducherry – 605 001.



WEB COPY



W.P.No.13389 of 2015

S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

(drm/Jeni)

W.P.No.13389 of 2015

02.07.2024
(2/3)