

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.08.2016

Pronounced on : 30.08.2016

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU**

**W.P.No.8942 of 2016
& W.M.P.Nos.7944 and 7945 of 2016
and
W.P.No.9132 of 2016
and
W.P.No.9133 of 2016
and
W.P.No.9814 of 2016
& W.M.P.No.8788 of 2016
and
W.P.No.9880 of 2016
and
W.P.(MD)No.11663 of 2016
& WMP(MD)No.8938 of 2016
and
W.P.No.12673 of 2016
& W.M.P.Nos.11039 and 11040 of 2016**

W.P.No.8942 of 2016

C.M.Arumugam

...Petitioner

Vs

1.The Chairman,Bar Council of India,
No.21, Rouse Avenue Institutional Area,
New Delhi 110 002.

2.The Secretary,

The Bar Council of Tamil Nadu and Puducherry,
Bar Council Building,
Chennai 104.

3.The Special Disciplinary Committee,
Karnataka State Bar Council,
Old K.G.I.D. Building,
Dr.Ambedkar Veethi, Bangalore 560 001,
Karnataka.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records relating to the impugned order of suspension passed by the first respondent herein dated 22.9.15 which was communicated to the petitioner through the second respondent herein vide R.O.C. No.2955 of 2015 dated 25.09.15 and quash the same as arbitrary and illegal.

For petitioners : Mr.S.Nambi Arooran

For Respondents: Mr.S.R.Rajagopal for R1
Mr.R.Singaravelan,
Senior Counsel
for M/s.Srividhya for R2 and R3

COMMON ORDER

All these writ petitions are filed challenging the common order dated 22.09.2015 passed by the Bar Council of India, New Delhi, wherein and whereby, all the writ petitioners were suspended from

practice pending disciplinary proceedings. In the very same impugned order, the Bar Council of India had also constituted a Committee consisting of Chairman and two Members of Karnataka Bar Council to hold the enquiry and conduct the disciplinary proceedings against these writ petitioners and others at Bangalore in the premises of Bar Council of Karnataka.

2. The Bar Council of India issued the impugned proceedings on 22.09.2015 citing two incidence dated 14.09.2015 and 16.09.2015 took place inside the High Court Campus holding procession in Court halls and entering into the Chamber of Judges, etc.

3. We are not inclined to go into the merits of the allegations made against these petitioners and others in these writ petitions, as admittedly the enquiry by the said Enquiry Committee at Bangalore is said to have commenced already and reached the stage of passing the final orders. Though the learned counsels appearing for the respective petitioners in these writ petitions sought to contend that the impugned order passed was without any authority and that holding the enquiry at Bangalore is without jurisdiction, these contentions are liable to be rejected on the reason that similar contentions raised in respect of other disciplinary proceedings initiated against some

advocates at Chennai, were already considered and rejected by the Division Bench of this Court in a case reported in **2016 (2) L.W. 230 (K.Sathyabal v. Bar Council of Tamilnadu)** wherein one of us (KRCBJ) was a party. Accordingly, by following the said decision, we reject the above contentions. However, we would like to consider the present writ petitions only on the limited question as to whether the prolonged suspension of these petitioners, pending enquiry, can be sustained.

4. At this juncture, we would like to point out that one of the persons against whom the present common impugned communication was issued, namely M.Thirunavukkarasu filed W.P.(MD).No.20086 of 2015 challenging the very same proceedings before the Madurai Bench of this Court and the Division Bench, by its order dated 03.03.2016, while rejecting all other contentions, however, considered his case only on the question of prolonged suspension. Accordingly, the Division Bench disposed of the said writ petition by directing the Bar Council to revoke the order of suspension passed against the petitioner therein within a week. The Division Bench also made it clear that it was not interfering with the disciplinary proceedings.

5. There is no dispute to the fact that these petitioners are also similarly situated with that of the petitioner in W.P.(MD).No.20086/2015 insofar as the question of considering the prolonged suspension is concerned. Admittedly, all these petitioners are under suspension from 22.09.2015. No doubt, it is stated before this Court that the enquiry at Bangalore was completed and only the final order is to be passed. When these matters were listed before us on two occasions earlier, we adjourned the matter only for the purpose to see as to whether any order is passed in the disciplinary proceedings in the meantime, thereby making the present writ petitions infructuous in either way. However, it appears that till this day, no order is passed by the Enquiry Committee. Therefore, considering the fact that these petitioners are under suspension for nearly a year, we are of the view that they can be permitted to resume their practice, subject to the outcome of the order to be passed in the disciplinary proceedings. We make it clear that we are not expressing any view in favour of the petitioners by passing this order as against the allegations made against them, as we have considered here the question of sustainability of prolonged suspension alone also by taking note of the benefit given by this Court in the case of Mr.Thirunavukkarasu, a similarly situated person. We also make it clear that the petitioners should co-operate with the

disciplinary proceedings apart from assuring their fullest co-operation for the smooth functioning of the Court.

6. Accordingly, all these writ petitions are disposed of directing the Bar Council of India to revoke the order of suspension passed against each of the petitioners pending decision of the disciplinary enquiry, within a week from the date of receipt of a copy of this order. We once again make it clear that we are not interfering with the disciplinary proceedings in any manner by passing this order and that the Enquiry Committee is at liberty to pass orders in the disciplinary proceedings at an early date. We also make it very clear that the order passed in these writ petitions is subject to the result of the order to be passed in the disciplinary proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

(M.M.S.,J) (K.R.C.B.,J)

30.08.2016

Index :Yes
Internet:Yes
vsi

Note: Issue order copy on 31.08.2016

M.M.SUNDRESH.,J.

**AND
K.RAVICHANDRABAABU.,J.**

vsi

**Pre-delivery order made in
W.P.Nos.8942 of 2016 etc. batch**

30.08.2016