

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 25.04.2017

Verdict on :28.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.7763, 8141, 8142, 8165, 8169, 8400, 2532 of 2017
& W.M.P.Nos.8495, 8496, 8923 to 8926, 8942, 8943, 8951, 8952,
9189 to 9191, 2493 & 2494 of 2017

W.P.No.7763 of 2017

K.Muthuramalingam ...Petitioner

Vs.

- 1.The Bar Council of India,
represented by its Secretary,
Rouse Avenue, New Delhi.
- 2.The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
High Court Buildings,
Chennai.
- 3.The Chairman,
The Disciplinary Committee,
Bar Council of India,
Rouse Avenue, New Delhi.
- 4.The Chairman,
Special Disciplinary Committee,
Karnataka State Bar Council,
Bangalore. ... Respondents

W.P.Nos. 8141, 8142, 8165 & 8169 of 2017

Mr.A.Abdul Rahman ...Petitioner in
W.P.No.8141 of 2017

Mr.R.Y.George Williams ...Petitioner in
W.P.No.8142 of 2017

V.Kayalvizhi ...Petitioner in-Person-1
in W.P.No.8165 of 2017

Infant Dinesh

...Petitioner in
W.P.No.8169 of 2017

Vs.

1.The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
High Court Buildings,
Chennai-600 104.

2.The Bar Council of India,
represented by its Secretary,
21, Rouse Avenue Institutional Area,
Near Bal Bhawan, New Delhi-110 002.

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

4.The Chairman,
The Disciplinary Committee of the Bar Council
of India, 21, Rouse Avenue Institutional Area,
Near Bal Bhawan, New Delhi-110 002.

.... Respondents in
all W.Ps

W.P.No.8400 of 2017

K.Sathyabal

...Petitioner

Vs.

1.The Bar Council of India,
represented by its Secretary,
Rouse Avenue, New Delhi.

2.The Chairman,
Disciplinary Committee of the Bar Council
of India, 21, Rouse Avenue Institutional Area,
New Delhi-110 002.

3.The Registrar,
The Special Disciplinary Committee
constituted by the Bar Council of India,
Karnataka State Bar Council,
Bangalore.

4.The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
High Court Campus,
Chennai-104.

... Respondents

W.P.No.2532 of 2017

S.Mahendran

...Petitioner

Vs.

- 1.The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
High Court Campus,
Chennai-104.
- 2.The Bar Council of India,
represented by its Secretary,
21,Rouse Avenue, Institutional Area,
Near Bal Bhavan, New Delhi-110 002. .. Respondents

Prayer:-Writ petition in W.P.No.7763 of 2017 is filed under Article 226 of the Constitution of India praying to issue writ of prohibition prohibiting the third respondent from conducting enquiry and take a decision in D.C. Appeal No.5 of 2017 filed by the petitioner pending on its file as the same is without jurisdiction and formed against the statutory law and rules prescribed.

Prayer:-Writ petitions in W.P.No.8141, 8142, 8165 and 8169 of 2017 are filed under Article 226 of the Constitution of India praying to issue writ of prohibition prohibiting the fourth respondent from proceeding further in Disciplinary Committee Appeal Nos.1 and 9 of 2017, 97 and 87 of 2016 respectively, from discharging the quasi judicial functions in violation of the statutory provision under Section 9(1) of the Advocates Act, 1965.

Prayer:-Writ petition in W.P.No.8400 of 2017 is filed under Article 226 of the Constitution of India praying to issue writ of prohibition prohibiting the second respondent from proceeding further in Disciplinary Committee Appeal No.10 of 2017 filed by the petitioner herein from discharging the quasi judicial functions in violation of the statutory provision under Section 9(1) of the Advocates Act, 1965.

Prayer:-Writ petition in W.P.No.2532 of 2017 is filed under Article 226 of the Constitution of India praying to issue writ of mandamus directing the second respondent to dispose of the appeal in Disciplinary Committee Appeal No.81 of 2016 dated 16.11.2016 preferred from the order of the first respondent in D.C.C.No.58 of 2015 dated 15.10.2016.

For Petitioner in : Mr.T.N.Rajagopalan, S.C., for
W.P.7763/2017 Mr.D.Ravichander

For Petitioner in : Mr.T.Velumani
W.P.8141 & 8142/2017

For Petitioner in : Mrs.V.Kayalvizhi
W.P.8165/2017 (Party-in-person)

For Petitioner in : Mr.R.C.Paul Kanagaraj
W.P.8169/2017

For Petitioner in : Mr.P.S.Raman, S.C., for
W.P.8400/2017 Mr.John Sathyan

For Petitioner in : Mr.L.Poompavai
W.P.2532/2017

For 1st Respondent in : Mr.S.R.Raghunathan
W.P.7763 & 8400/2017 &
2nd Respondent in
W.Ps.8141, 8142, 8165, 8169
& 2532/2017

For 1st Respondent in : Mr.J.Pothiraj
W.Ps.8141, 8142, 8165 &
8169/2017 and 2nd Respondent
in W.P.7763/2017 &
4th Respondent in
W.P.8400/2017

For 1st Respondent in : Mr.S.Y.Masood
W.P.2532/2017

COMMON ORDER

M.M.SUNDRESH, J.

The petitioners' stand is common on the issues of fact and law. Hence, these writ petitions are taken up together and disposed of by way of a common order.

2. All the petitioners suffered adverse verdicts at the hands of the Special Disciplinary Committee constituted by the Karnataka Bar Council. They preferred statutory appeals. Pending appeals, interim suspension was sought. The applications filed were dismissed by the respondents-Disciplinary Committee/Bar Council of India, on various grounds, including the decision made to dispose of the appeals at an early date. These

writ petitions have been filed laying a challenge to the constitution of the Special Disciplinary Committee with specific reference to the eligibility of the Chairman being a retired Honourable Judge of the High Court and holding the post of Judicial Member of the Lok Ayuktha in the State of Bihar.

3. Though a limited and restrictive prayer has been sought for in W.P.No.2532 of 2017, taking note of the commonality of the issues, the order passed in the other writ petitions would govern this case as well.

4. Heard the learned counsel appearing for the parties.

5. We do not wish to dwell into the factual matrix. The pivotal submissions on behalf of the learned Senior Counsels is to the constitution of the Special Disciplinary Committee by the Bar Council of India. Though a counter affidavit has been filed to the averments made in the affidavits filed by the petitioners, when these matters were taken up for hearing on last occasion, we made a suggestion to the learned counsel appearing for the Bar Council of India to get instruction on the possibility of reconstituting or changing the Committee.

6. Accordingly, on instruction, the learned counsel appearing for Bar Council of India fairly submitted before us on 25.04.2017 that the Bar Council of India is agreeable for changing the Disciplinary Committee. We appreciate the stand taken by the Bar Council of India.

7. Various appeals have been filed by the Lawyers, who suffered adverse orders qua different incidents. However, the issues of law would remain the same on the constitution of the Disciplinary Committee for all the appeals. What is applicable to one appellant will have to be applicable to the others as well.

8. In such view of the matter, we are of the considered view that the new Committee to be constituted, without the presence of the members of the present Committee, will have to be tasked to deal with all the appeals. In such view of the matter, the grievance of the petitioners sought in the writ petitions got addressed.

9. The only other issue is with respect to the interim orders passed on the applications seeking interim suspension. The learned Senior Counsel for the petitioners would submit that the petitioners have not been heard. The learned counsel appearing for the Bar Council of India would submit that the rigour of Section 38 of the Advocates Act, 1961 would come into play. We do not propose to go into the said issue on merits for more than one reason. Firstly, we are inclined to permit all the petitioners and others, who are similarly placed and whose

interim applications have been rejected, to file fresh applications before the new Disciplinary Committee, as we believe fair play requires such a course. This is also for the reason that the fact situation qua the early disposal of the appeals is no longer available. Secondly, the interim orders passed are not specifically challenged before us. Thirdly, on a conscious consideration of Section 38 of the Advocates Act, 1961, such orders are to be put into challenge only before the Supreme Court of India.

10. Accordingly, the writ petitions are disposed of in the following manner.

- (i) The Bar Council of India is directed to either reconstitute a new Committee or refer the appeals to another Committee as submitted by the learned counsel appearing for it.
- (ii) Such an exercise is to be done within a period of 15 days from the date of receipt of a copy of this order.
- (iii) The petitioners and other appellants, who suffered adverse orders, are at liberty to file fresh applications seeking interim suspension.
- (iv) Such applications are to be filed within a period of two weeks from the date of this order and the same are to be disposed of, after due notice to the parties and their counsel without being influenced by the order passed by the existing Committee, within a period of four weeks thereafter.
- (v) Appeals are to be disposed of as expeditiously as possible.
- (vi) Liberty is also given to seek relief on the principle of proportionality.
- (vii) This order would be applicable to all the pending appeals arisen from different instances.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

raa

To

1. The Secretary,
The Bar Council of India,
Rouse Avenue, New Delhi.

2.The Secretary,
The Bar Council of Tamil Nadu and Puducherry,
High Court Buildings,
Chennai.

3.The Chairman,
The Disciplinary Committee,
Bar Council of India,
Rouse Avenue, New Delhi.

4.The Chairman,
Special Disciplinary Committee,
Karnataka State Bar Council,
Bangalore.

5.The Chairman,
Special Disciplinary Committee,
Karnataka State Bar Council,
Bangalore.

6.The Registrar,
The Special Disciplinary Committee
constituted by the Bar Council of India,
Karnataka State Bar Council,
Bangalore.

+1cc to Mr.S.R.Rajagopal,Advocate sr.26301

+2cc to Mr.V.Kayalvizhi,Person in Person,sr.26234

+2ccs to Mr.T.Velumani,Advocate sr.26230,26229

+1cc to Mr.D.Ravichandran,Advocate sr.26309

सत्यमेव जयते

W.P.Nos.7763, 8141, 8142, 8165,

8169, 8400, 2532 of 2017

rsy(co)
ss(2/5/2017)

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