

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos. 25919 of 2015

& M.P.No.1 of 2015

Dharmapuri Advocate's Association,
Dharmapuri. Represented by its
Secretary A.Balasubramaniam,
A.Gollahalli Pudur, Dharmapuri District. ...Petitioner

Vs.

The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
NSC Bose Road, Madras-104. ... Respondent

Prayer:-Writ petition is filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the respondent in the resolution No.247 of 2014 dated 07.11.2014, quash the same as illegal, unconstitutional and without jurisdiction and further direct the respondent to recognize the petitioner's association under the provisions of Tamil Nadu Advocates Welfare Fund Act.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.S.Y.Masood

ORDER

(Order of the Court was made by M.M.Sundresh, J.)

The petitioner made an application seeking recognition for his Association at the hands of the respondent. Placing reliance upon the report of the Committee, the request was rejected on the premise that in fact, only there were 16 members and names have been found place in the parent Association.

2. The learned counsel appearing for the petitioner submits that the Committee constituted by the Council did not make an inspection by the participation of all the members except one. It is further submitted that the assessment made based upon which decision has been rendered is not correct.

3. Mr.S.Y.Masood, the learned counsel appearing for the respondent-Bar Council of Tamil Nadu and Puducherry, submits that the decision in the impugned order has been passed on facts. The petitioner association is only a small group of members who wanted to have a separate association. An affidavit was filed signed by the Lawyers, who are all members of the main association and thus, no interference is required.

4. We do not propose to go into the facts surrounding the matter. Considering the facts and circumstances of the case, it is suffice to direct the learned counsel appearing for the respondent-Bar Council of Tamil Nadu and Puducherry, to constitute another committee and make a fresh inspection after due notice to both the parent association as well as petitioner-association. The costs for the inspection has to be borne out by the petitioner- association. It is made clear that ultimate decision is to be taken only by Bar Council of Tamil Nadu and Puducherry, only based on material. There is no bar in law to be the members of more than one association, while such a Lawyer has to indicate in specific term as to which one of the associations he would like to exercise its voting right. Therefore, the members list to be given by the petitioner shall also include affidavits of individual persons stating that they are willing to exercise their voting in favour of the petitioner association. The Committee shall also verify the actual members of the petitioner- association while submitting a report. Thus, the Committee shall file its report after due notice to the parties aforesaid within a period of six weeks from the date of receipt of a copy of this order. Then appropriate decision will be taken by the Bar Council of Tamil Nadu and Puducherry. It is agreed such an exercise can be done by sub committee of the Bar Council of Tamil Nadu and Puducherry.

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5. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa

To

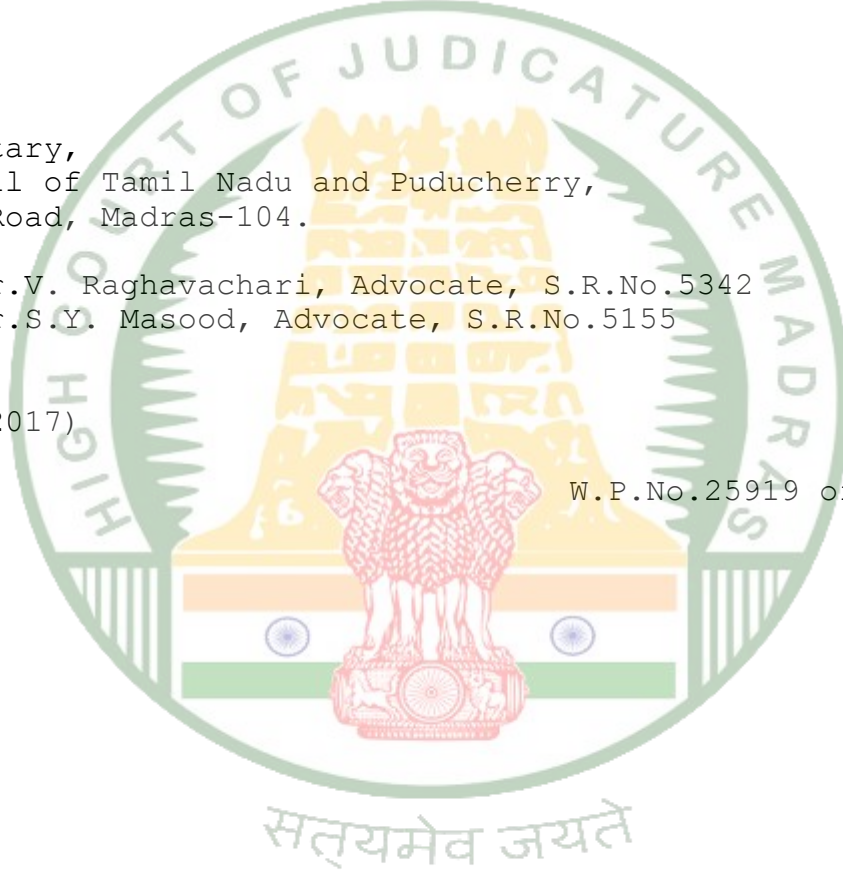
The Secretary,
Bar Council of Tamil Nadu and Puducherry,
NSC Bose Road, Madras-104.

+1cc to Mr.V. Raghavachari, Advocate, S.R.No.5342

+1cc to Mr.S.Y. Masood, Advocate, S.R.No.5155

ssi (CO)
md(15/02/2017)

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