

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.No.43909 of 2016

R.Muthukrishnan ...Petitioner

Vs.

The Bar Council of Tamil Nadu and Puducherry,
represented by its Secretary,
High Court Campus,
Chennai-600 104. Respondent

Prayer:-Writ petition is filed under Article 226 of the Constitution of India praying to issue writ of mandamus declaring the action of the respondent vide its notice of hearing dated 7th March 2016 asking the petitioner to appear before the Disciplinary Committee No.VI of the respondent on the 19th March 2016 and to submit the petitioner's statement of defence within 7 days from the said notice of hearing as improper, illegal, without jurisdiction and unconstitutional for its being violative of Articles 14, 19 and 21 of the Constitution of India and further declaring the action of the said Disciplinary Committee in holding the enquiry in its sittings held on 19.03.2016, 08.04.2016, 23.04.2016, 25.06.2016, 23.07.2016 and 20.08.2016 as unconstitutional, void ab initio, null and void and non est in the eyes of law.

For Petitioner : Mr.R.Muthukrishnan,
Party-in-person

For Respondent : Mr.R.Singharavelan, S.C., for
Mrs.R.Srividhya for R2 & R3

ORDER

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

The petitioner, who is a party in person, filed W.P.No.35394 of 2015 seeking to declare the public notice issued by the second respondent therein, in tune with the order passed in an earlier writ petition by the learned single Judge. The writ

petition was dismissed by the Honourable Division Bench in and by the order dated 03.11.2015. The following paragraph of the decision rendered supra would be apposite.

"10. In our view, the endeavour through the present petition is to circumvent the rigours of the judgment passed by the learned single Judge and since the petitioner is an advocate, he very well knows the legal procedures and the consequences thereof. To once again raise this issue is nothing but a publicity stunt.

11. It is high time that there is a value to be assigned to the judicial time which is spent on such matters and the insistence of the petitioner to go on to argue such matters. The petitioner must pay for it.

12. Writ petition is, accordingly, dismissed as meritless, with costs of Rs.10,000/- (Rupees ten thousand only) to be deposited with the Tamil Nadu Mediation and Conciliation Centre, Madras High Court Campus, within fifteen days from today. In case, no costs are deposited, no further P.I.L., will be entertained as filed by the petitioner. Consequently, M.P.No.1 of 2015 stands closed."

2. Not satisfied with the same, the petitioner has filed Review Application No.294 of 2015. The review application was dismissed once again by the Honourable Division Bench on 22.12.2015 by taking into consideration the inappropriate language used by the petitioner.

"10. The language of the pleadings are offensive in character and in our view, reflection of the disrespect of the petitioner towards the judicial system. That it comes from a Lawyer is all the more unfortunate, albeit appearing in person. The petitioner seeks to adopt an approach as if he alone can be right and even if there are judicial orders contrary to his view, they are no orders in the eyes of law. In this behalf, not only the approach to the order and review, but even his approach to the order of the learned Single Judge where his review is pending makes it obvious.

11. We would have still left the matter at that stage as a misadventure of the petitioner, but we can not do so in view of the further averments of the petitioner

alleging that dismissal of the petition amounted to this Court working as a 'Katta Panchayat'. The said expression is used for illegal courts working to subvert the legal system, i.e., Kangaroo Courts. The petitioner thereafter states that there is breach of the Oath of Office taken. We are thus unequivocally of the view that the petitioner is deliberately trying to scandalise the court and taking advantage of his age, to get away from the consequences of the misadventure. Despite this, we do think it worth our while to go into this issue further, but we do believe that such conduct by Lawyers as officers of the Court, is completely unbecoming of their profession and unacceptable as norm of conduct.

12. Instead of taking proceedings for contempt, we are of view that we should refer the matter to the Bar Council of Tamil Nadu and Puducherry, with a copy marked to the Bar Council of India, to examine the conduct of the petitioner in this context whether he should continue on the rolls as Member of the Bar or his membership ought to be cancelled/suspended.

13. A copy of this order be accordingly issued to the said authorities along with the copy of the review application, order in W.P.No.35394 of 2015 and other relevant papers.

14. As far as the review application is concerned, there is no error apparent on the face of the record and we reiterate that judicial time cannot be wasted and thus impose a further cost of Rs.10,000/- on the petitioner with the same condition as contained in paragraph-12 of our order dated 03.11.2015 to be deposited in addition, within a period of 15 days from the date of receipt of this order. We may note that the petitioner has not complied with the earlier order as to costs and the Registry to take note of our directions contained in that order qua filing of any Public Interest Litigation by the petitioner."

3. Pursuant to the observations so made by the Honourable Division Bench, which has become final, as is the case in the order passed in the earlier writ petition, notices have been

issued by the respondent-Bar Council of Tamil Nadu and Puducherry to the petitioner asking him to appear for the enquiry. It is these notices, which are put into challenge in this writ petition.

4. The petitioner appearing in person made two submissions before this Court. The first submission is that under Section 35 of the Advocates Act, 1961, there has to be a complaint followed by the enquiry. Secondly, the orders have been passed by the Honourable Division Bench when the petitioner has appeared as party-in-person and not in the capacity of the Lawyer. Thus, the proceedings put into challenge will have to be quashed.

5. The order passed by the Division Bench in Review Application No.295 of 2015 in paragraph 7 answers the contention raised by the petitioner. Though he has filed the review application as party-in-person, factually, it is not in dispute that the petitioner is a practising Lawyer. The Honourable Division Bench took note of the fact that the petitioner being a Lawyer, did not perform his role and that is the reason why the Bar Council of Tamil Nadu was directed to proceed against him.

6. We do not find any merit in this writ petition. As rightly submitted by the learned Senior Counsel appearing for the respondent, the orders passed in W.P.No. 35394 of 2015 and in the Review Application No.294 of 2015 have become final. What the petitioner seeks to challenge is nothing but an attempt to challenge the above said orders in an indirect way. Section 35 of the Advocates Act, 1961 speaks about complaint or "otherwise". The action is sought to be taken against the petitioner only in pursuant to the judicial order passed by this Court. What is required for initiation qua the Bar Council of Tamil Nadu is a reason to believe, which certainly exists in the case on hand. The petitioner cannot be stated to be aggrieved at this stage. In such view of the matter, we do not find any merit in this writ petition and the same stands dismissed. No costs.

7. After the orders are pronounced, the petitioner made one more contention that the erstwhile Committee is no longer in existence and therefore, all the proceedings initiated against him would get abated. We are afraid that such a contention cannot be countenanced for the reason that now a Sub Committee has come into being.

8. The learned Senior Counsel submits that fresh notice would be issued to the petitioner and thereafter, appropriate orders would be passed. Thus, in view of the said submission, the contention of the petitioner in this regard is also rejected.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa

To

The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai-600 104.

2 The Assistant Registrar
Tamil Nadu Mediation and Conciliation Centre,
High Court, Madras

+2cc to Mr.R. Muthukrishnan, Advocate, S.R.No.5084 (27/02/2017)

ssk(CO)
md(14/02/2017)

W.P.No.43909 of 2016

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