



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.(MD)No.10544 of 2017

C.N.Selvarani,
Advocate (En.No. 2061/12M.S)

... Petitioner

Vs.

1.The Secretary,
Bar Council of Tamilnadu,
High Court Campus,
Chennai-600104.

2.Criminal Courts Advocate's Association(Reg No.79/07)
Rep. by its president
M.Rajendhra Kumar, B.A., B.L.
Trichy, Trichy District.

3.M.Raja Raja Cholan, M.A., M.L.
Secretary Criminal Courts Advocate's Association(Reg. No.79/07)
Trichy, Trichy District.

4.M.Rajendhra Kumar, B.A., B.L.,
Advocate,
District Court, Trichy,
Trichy District.

5.M.Raja Raja Cholan,M.A., M.L.,
Advocate,
District Court, Trichy,
Trichy District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the first respondent herein to conduct enquiry and initiate disciplinary proceedings against 3 to 5 respondents based upon the complaint sent to the first respondent dated 30.03.2017.

For Petitioner

: Mr.D.Selvaraj

For Respondent 1

: Ms.J.Anandha Valli

For Respondent 2 to 5

: Mr.N.Anandha Kumar

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

This Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the first respondent herein to conduct enquiry and initiate disciplinary proceedings against the respondents 3 to 5 based upon the complaint sent to the first respondent dated 30.03.2017.

2. Heard Mr.D.Selvaraj, learned Counsel appearing for the petitioner, Ms.J.Anandha Valli, learned counsel appearing for the first respondent and Mr.N.Anandha Kumar, learned counsel appearing for the respondents 2 to 5.

3. When the matter was taken up for admission on 07.06.2017, after hearing the learned counsel for the petitioner, the following order was passed:

"The petitioner is a practising Advocate before the Courts in Trichirappalli District, for the past four years, having enrolled before the Tamil Nadu Bar Council, bearing Registration No.2061 of 2012.

3. The petitioner has approached this Court bringing to our notice an unethical and illegal practice stated to have been adopted by the second respondent, which is the Criminal Courts Advocates' Association. The petitioner is not a member of the said Association and it appears that the said Association has passed a resolution on 04.04.2017 to the effect that if an advocate, who is not a member of their Association, files an admission petition on behalf of an accused before any of the Judicial Magistrate Courts in Trichirappalli District, has to obtain signature and seal in the Vakalat from the second respondent Association on payment of Rs.300/-, of which Rs.20/- will go to the funds of the Association and the remaining to be shared by the members of the second respondent Association.

4. Prima facie, we are of the clear view that the resolution is illegal and no Association, much less the second respondent Association can insist upon payment of any money to the Association for filing a petition on behalf of the accused before the Criminal Courts. This practice has to be immediately initiated against all the persons, who were instrumental in evolving such an illegal procedure.



5. The above prima facie observation is made by us and a decision would be taken after the respondents enter appearance.

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6. Issue notice to the respondents through Court and privately, returnable in three weeks. In the meantime, the Principal District Judge, Thiruchirapalli, is directed to ensure that the resolution passed by the second respondent Association, insisting upon the payment of Rs.300/- for admission petition be immediately suspended and permit all the counsel of the bar to appear before all the Judicial Magistrate Courts falling within his jurisdiction.

7. Registry is directed to communicate this order to the Principal District Judge, Thiruchirappalli, through Fax today. Call on 28.06.2017."

4. Today (28.06.2017) when the matter was taken up for hearing, Mr.N.Anandha Kumar, learned counsel has entered appearance for the respondents 2 to 5. During the course of his submissions, the learned counsels were called upon to inform as to whether the Office Bearers or Association members received notices and whether they are present in Court.

5. Learned counsels submitted that the President of the Advocates Association Mr.M.Rajendra Kumar and the Secretary of the Association Mr.M.Raja Raja Cholan are present in Court and seated in the visitors gallery. We directed them to come forward and expressed to them in no uncertain terms what was passing in our mind and why we entertained the writ petition. We reminded them of their responsibility being the members of the noble profession and the responsibility which the Association shoulders and by passing the impugned resolution, the Association has caused a serious dent on the legal profession apart from it being wholly illegal. The President and the Secretary of the Association submitted that the resolution has been rescinded and will not be implemented. The manner in which they made their submission clearly showed that they were regretful for their action in having passed such a resolution through earlier they made a feeble attempt to justify their stand alleging cartel by the police authorities. We rejected such a feeble attempt and stated that there are ways and means to tackle the police if they form a cartel and there is no justification for the Association to pass the impugned resolution. Thus, they unconditionally accepted our



6. Pursuant to our directions in our order dated 07.06.2017, the Principal District Judge, Tiruchirapalli has submitted his report dated 27.06.2017. On a reading of the report, we find that proper action has been taken and a circular has been issued to all Judicial Magistrates in Tiruchirapalli District enclosing a copy of our earlier order and the Principal District Judge has reported that as of now there are no such incidents in any of the Magistrate Courts based upon the impugned resolution.

7. Hence, for all the above reasons, we set aside the impugned resolution dated 04.04.2017 as illegal, arbitrary and totally without jurisdiction. The petitioner has sought for a direction upon the Bar Council of Tamil Nadu to take action against all those who are responsible for passing the impugned resolution. Considering the facts and circumstances of the case and in the light of the regret expressed by the President and Secretary of the Advocates Association and their subsequent conduct in rejecting the resolution coupled with the fact that the Court has also quashed the resolution, we refrain from issuing any direction to the Bar Council of Tamil Nadu and would close the proceedings.

8. We hope and trust that the office bearers and the members of the Association will strive to uplift the efficacy and efficiency of its members and do that is possible to ensure a better future for all the Advocates who are its members and simultaneously ensure that such incidents such as the one resulting in passing the impugned resolution should not be repeated in future.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

The Secretary,

Bar Council of Tamilnadu, High Court Campus, Chennai-600 104.

+One cc to Mr.D.Selvaraj, Advocate, SR.No.62338

+One cc to M/s.J.Anandhavalli , Advocate, SR.No.62484

+One cc to Mr.N.Anandakumar, Advocate, SR.No.62470

SM/TSG

RL/5C/4P/SV/MMS/SAR1/8/9/2017

W.P. (MD) No.10544 of 2017