



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2017**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
W.P.[MD].No.22625 of 2016

M.Michael Santha Forgia, : Petitioner

Vs.

1.The Bar Council of Tamil Nadu and Puducherry,
Chennai-600 104
Represented by
The Advocate General,
High Court of Judicature,
Madras.

2.N.Sureshkumar, (M/About 40 years)

3.V.Kumaravel,

4.V.Chinnadurai,

5.P.Muthulakshmi,

6.Subbumuthuramalingam,

7.Ignatious,

8.P.Thangaraj Gandhi, : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to institute appropriate disciplinary proceedings against respondents 2 to 8 within the time stipulated by this Court.

For Petitioner : Mr.B.N.Rajamohamed

For Respondent No.1 : Mr.Subash Babu

For Respondent No.2 : Mr.G.Prabhu Rajadurai

For Respondent No.4 : Mr.L.Shaji Chellan

For Respondent No.5 : Mr.T.Lajapathi Roy

For Respondent Nos.

<https://hcservices.ecourts.gov.in/hcservices/> 3, 6 to 8 : No Appearance



O R D E R

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

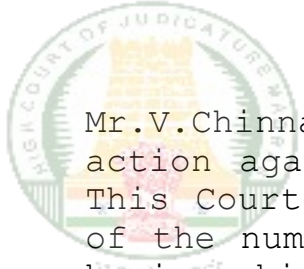
Heard Mr.B.N.Rajamohamed, learned counsel appearing for the petitioner, Mr.M.Subash Babu, learned counsel for the first respondent, Mr.G.Prabhu Rajadurai, learned counsel for the second respondent, Mr.L.Shaji Chellan, learned counsel for the fourth respondent and Mr.T.Lajapathi Roy, learned counsel for the fifth respondent.

2.The petitioner claiming herself to be a Treasurer of the Tuticorin Bar Association is before the Court, seeking for issuance of Writ of Mandamus to direct the first respondent, Bar Council of Tamil Nadu and Pudhuchery to institute appropriate disciplinary proceedings against the respondents 2 to 9 who are none other than the office bearers of the very same Bar Association, in which the petitioner is a member. The allegation is that the petitioner was humiliated, abused in filthy language by the respondents 2 and 5 to 8 and the sixth respondent tried to assault her.

3.In this regard, the petitioner has lodged a complaint to the police, for which C.S.R.No.700 was given on 21.10.2016 and submitted a complaint before the Principal District Judge on 21.10.2016 as well as the Superintendent of Police on 22.10.2016. It appears that the petitioner had approached the superintendent of Police on the pretext that action has not been initiated based on her complaint to the jurisdictional police. The petitioner has also sent a complaint before the Tamil Nadu Bar Council in which the petitioner has impleaded only the respondents 2, 3,5,6,7 and 8. However the fourth respondent has been left out whereas prayer sought for in this writ petition, the petitioner seeks for action against the respondents 2 to 8.

4.Further we note that the respondents 2,3,5,6,7 and 8 were all suspended by the Bar Council of India, during the months of July, August and September 2016 and it appears that subsequently the suspension has been revoked. The petitioner is said to have sent the complaint dated 27.10.2016 by speed post on the very same day and annexing the tracking information given by the Postal Department, the petitioner has filed the writ petition on 21.11.2016. Firstly, the Bar Council of Tamil Nadu and Pudhuchery being a statutory body, has to be given reasonable time to take note of any complaint which may be lodged either by a client against the counsel or in this case against two set of lawyers, claiming themselves to be the leaders of the Tuticorin Bar Association.

<https://hcservices.equibond.in/cases/> 5.Being in the view, we are of the view that this writ petition is counter blast to another writ petition filed by Mr.V.Chinnadurai who is the fourth respondent in this writ petition. The said



Mr.V.Chinnadurai had filed W.P.No.23549 of 2016 for appropriate action against the fourth respondent Thiru.Michael Stanis Prabhu. This Court, while entertaining the said writ petition taking note of the number of the cases against the fourth respondent and that he is a history sheeter, passed the following order:

"Notice of motion returnable by 10.01.2016. Private Notice is also permitted.

2.Mr.M.Ajmalkhan, learned Senior Counsel appearing for the petitioner, assisted by Mr.L.Shaji Chellan has drawn the attention of this Court to the affidavit filed in support of this writ petition as well as the typed set of papers and would contend that the 4th respondent is known for notorious criminal activities in Tuticorin Town and he is arrayed as accused in very many cases and also branded as a history sheeter by the local police and he has also involved in a case as A1 for commission of the offences under Sections 147, 148, 294(b), 323, 307, 506(ii) I.P.C. in Crime No.1193 of 2016, registered by the Tuticorin South Police Station, Tuticorin District. By drawing the attention of this Court to the order of this Court dated 10.11.2016, made in CrI.O.P.(MD) No.20608 of 2016 would submit the 4th respondent who is arrayed as 1st accused, is having 18 previous cases and that apart, he attacked his counter part with deadly weapons. Despite such a dark record, for the reasons best known, the first respondent/The Bar Council of India vide proceedings BCI:D: 6004/2016 (Council) dated 17.10.2016, after the term of the expiry of the tenure of the Bar Council of Tamil Nadu & Pondicherry, had formed the Adhoc Committee, which includes the 4th respondent. It is the submission of learned Senior Counsel that though the Bar Council of India is the custodian of the Legal Profession and is duty bound to maintain the honesty and dignity of the profession, for the reasons best known, chosen to include the person known for criminal activities and coopted him as an Adhoc Member and such a kind of act on the part of the first respondent, a Statutory body may give out an impression that the said Institution is not concerned with the maintenance of nobility or integrity of the profession and therefore, prays for interim orders.

3.This Court considered the submissions made by the learned Senior Counsel for the petitioner and Mr.R.Velmurugan, learned Government Advocate, who accepts notice on behalf of the 3rd respondent and also perused the materials placed before it.

4.It is relevant to extract the cases in which the 4th respondent is arrayed as accused stated in paragraph 6 of the affidavit filed in support of this petition:

S. No.	Police Station	Crime No. & Section	Stage of the case
1	Thoothukudi North P.S.	Cr.No.879/08 u/s.353, 307, 506(ii) I.P.C. & 3 r/w 25(i)(b) & Sec.27 of Arms Act	Acquittal on 13.12.2013
2		Cr.No.115/09 u/s.294(b), 427, 387, 506(ii) I.P.C. & 4 of TNPHW Act	MF 29.05.09
3		Cr.No.536/09 u/s. 294(b), 323, 506 (ii) IPC	Acquittal on 27.01.2010
4		Cr.No.537/09 u/s. 294(b), 323, 506 (ii) IPC	Acquittal on 11.01.2010
5		Cr.No.743/14 u/s.147, 341, 294(b), 332, 353, 225 IPC	Charge Sheeted C.C.No.275/16 at JM Court, Thoothukudi
6	Thoothukudi Central P.S.	Cr.No.148/09 u/s.147, 296 IPC 3(a) (b) IPC 3(a)(b) Unlawful activities (Prevention Act 1967) r/w 7(1)(A) CLA Act Total Accused 159	Charge Sheeted C.C.No.508/09 at JM Court, Thoothukudi
7		Cr.No.03/12 u/s.143, 341, 188 IPC	A.D. on 06.01.2012
8		Cr.No.393/12 u/s.143, 188 IPC	A.D. on 13.09.2012
9		Cr.No.75/13 u/s.143, 341, 188 IPC	A.D. on 25.03.2013
10		Cr.No.78/13 u/s.143, 341, 188, 285 IPC	A.D. on 26.03.2013
11		Cr.No.486/14 u/s.147, 342, 506(i) IPC	
12		Cr.No.195/15 u/s.143, 288 IPC	Charge Sheeted as S.T.C. No.43/16 at JM II Court, Thoothukudi
13		Cr.No.427/15 u/s.147, 148, 364(A), 294(b), 323, 324, 384, 457, 506(ii) and 120(b) of IPC	P.R.C.No.31/16 at JM II Court, Thoothukudi (now Pending before ADJ No.II Court Thoothukudi)
14	Thoothukudi South PS	Cr.No.140/06 u/s.341, 353, 506(ii) IPC and 4 of TNPHW Act	Acquittal on 12.04.12
15		Cr.No.515/02 u/s.147, 148, 120(b) IPC and 25(1)(a) Arm Act	Acquittal on 04.07.05

16	Thalamuthu Nagar PS	Cr.No.197/09 u/s.3(1)(x) SC/ST (POA) Act 1989	MF 10.05.09
17	Sipcot PS	Cr.No.279/10 u/s.147, 342, 285, 353, 506(i) IPC	UI
18	Authoor PS	Cr.No.85/10 u/s.147, 294(b), 506(ii) IPC	Acquittal on 17.09.10

5.It is also the specific case of the petitioner, who is Joint Secretary of the Tuticorin Bar Association, that 4th respondent is a history sheeter on the file of the 3rd respondent and he was also the instrument for calling for boycott for more than 60 days in two spells. As rightly contended by the learned Senior Counsel for the petitioner, the first respondent cannot plead ignorance as to the alleged bad antecedents of the 4th respondent and inspite of it, has been coopted as a member in the Adhoc Committee to oversee the functions of the second respondent, namely, Bar Council of Tamil Nadu & Pondicherry. Therefore, this court is of the view that a prima-facie case has been made out for grant of interim orders; otherwise, the dignity of the profession as well as fairness and reputation of the ethics bodies, namely, 1st respondent and second respondent may also bound to suffer and the continuance of the 4th respondent as Member of the Adhoc Committee may likely to result in incalculable damage. Balance of convenience as on date, is also in favour of the petitioner. Hence, there shall be an order of ad-interim injunction restraining the 4th respondent from functioning as a Member of the Adhoc Committee of the second respondent till 10.01.2017.

Call on 10.01.2017."

6.The above referred interim order continues to be remain in force though the statement was made in the said writ petition on behalf of the Bar Council that Adhoc Committee is not functioning and no meeting is conducted. In any event, we are of the firm view that the relief sought for in this writ petition cannot be granted and the Bar Council of Tamil Nadu and Pudhuchery has to be left to proceed in accordance with law, in a proper manner and therefore we are not inclined to issue any direction in this Writ Petition, leaving it open to the petitioner to pursue her complaint before the Bar Council of Tamil Nadu and Pudhuchery, if she is so advised.

7.With the above observation the Writ Petition is dismissed. No costs.

Sd/-

ASSISTANT REGISTRAR (CS-II)



TO

+1 CC TO MR.M.SUBASH BABU,ADVOCATE,SR NO.53847

+1 CC TO MR.T.LAJAPATHIROY,ADVOCATE,SR NO.53756

+1 CC TO MR.L.SHAJI CHELLAN, ADVOCATE,SR NO.53880

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.53934

Arul

MAS/JC:08.05.2017:6P-5C

ORDER MADE IN
W.P.[MD].No.22625 of 2016
24.04.2017