

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3473 of 2018

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Pulkit Prasad Yadav, Son of Late Sahdeo Yadav, Resident of Ward No. 25,
Bhirkhi, P.S.-Madhepura, District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar, through Secretary, Law Department Government of Bihar, Patna.
2. The Bihar State Bar Council, through its Chairman, Bar Council Bhawan, Bihar, Patna.
3. The Chairman, Bihar Advocate Welfare Trustee Committee, Bihar Bar Council Bhawan, Patna.
4. The Secretary, Bihar Advocate Welfare Trustee Committee, Bihar Bar Council Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Adv.
For the Res. 2 to 4	:	Mr. Prem Kumar Jha, Adv.
		Mr. Rajesh Kumar Jha, Adv.
For the State	:	Mr. Sunil Kumar Mandal, SC-3
	:	Ms. Neelam Kumari, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 11-09-2018

Heard Mr. Sharda Nand Mishra, learned counsel
for the petitioner, Mr. Prem Kumar Jha, learned counsel for
Respondent Nos. 2 to 4 and Ms. Neelam Kumari, learned AC to
SC 3 for the respondent-State.

The present writ application has been filed for a
direction to the Respondent Authorities, particularly to
Respondent Nos. 3 and 4, the Chairman, Bihar Advocate
Welfare Trustee Committee and the Secretary, Bihar Advocate
Welfare Trustee Committee, respectively, to restore the
membership of the petitioner for Bihar Advocate Welfare



Trustee Committee (hereinafter referred to 'the Committee'), since the membership of the petitioner has been terminated from 2016-17.

It is submitted by learned counsel for the petitioner that the petitioner, being an advocate, got enrolled as member of the Bihar State Bar Council, Patna on 09.08.1977, bearing Enrollment No. 514/1977 and started practicing in Civil Court, Madhepura. Subsequently, the petitioner became the member of the Bar Association, Civil Court, Madhepura as well as Bihar Advocate Welfare Trustee Committee, bearing Membership No. 0680063 dated 02.09.1985 and since then, he used to submit the subscription fee for Bihar Advocate Welfare Trustee Committee, but he failed to submit the subscription fee since 2016-17 and due to non-payment of the subscription fee for 2017-18 within the prescribed time, the membership of the petitioner was terminated in exercise of power under Section 16(7) of the Bihar State Advocates' Welfare Fund Act, 1983 (hereinafter referred to as 'the Act'), but the petitioner was not having any information about the termination of his membership and he came to know about the termination in January 2018 and thereafter the present writ application was filed.

It is further submitted by learned counsel for the



petitioner that the petitioner contacted the officials of the Committee and came to know that in case of termination of membership, there is a provision under Sub-Section 8 of Section 16 of the Act, that a person after termination of membership of any advocate from the fund under Section 16(7) of the Act can be re-admitted to the fund within a period of six months from the date of such removal, on payment of the arrears with interest at the rate of 12% per annum. He further learnt that he cannot be re-admitted because period of six months has already been lapsed and even if the petitioner is re-admitted then he will lose the seniority of the membership for thirty years. However, the petitioner relies upon the orders dated 23.08.2012 and 25.09.2014, passed in CWJC No. 3052 of 2011 and CWJC No. 122 of 2014, respectively, whereby direction was issued for reconsideration of restoration of the membership of the petitioners of the said writ applications, namely, Ashok Kumar Karn and Ramchandra Poddar's respectively and consequently membership of above mentioned advocates were restored. Hence, it is prayed for a direction to Respondent Nos. 3 and 4, to restore the membership of the petitioner on the same terms and conditions on which the membership of the Ashok Kumar Karn and Ramchandra Poddar has been restored in view of the



order passed in CWJC No.3052 of 2011 and CWJC No.122 of 2014.

Mr. Prem Kumar Jha, learned counsel for the Respondent Nos. 2 to 4 submits that under Section 7 (8) of the Act, the petitioner could have submitted an application within six months of the termination of his membership for re-admission, but the petitioner has failed to avail the said remedy. Hence, he cannot be re-admitted even on exercise of jurisdiction under Section 7(8) of the Act. Moreover, there is nothing on record to suggest that the petitioner submitted the subscription fee of the fund up to 2015-16, however a statement to that effect has been made in the petition.

Mr. Jha further submits that now by insertion of Section 17A in the Act in the year 2015 with effect from the gazette publication dated 06.05.2015, the Committee has been given a power to review its decision, though such jurisdiction of review has to be exercised if an aggrieved advocate-cum-member of the fund submits an application for review within thirty days from the date of receipt/knowledge of such order of the Committee. However, the Committee has also been empowered under the provisions of Sections 17 A of the Act to condone the delay in preferring such review applications for



reasonable and sufficient reasons.

It appears that the petitioner has not brought on record the order of termination by which the membership of the petitioner to the fund has been terminated, hence this Court is not inclined to interfere.

However, in view of the very fair stand of the Mr. Jha, learned counsel for the Respondent Nos. 3 and 4, this writ application is disposed of with a liberty to the petitioner to file a review application along with an application for condonation of delay before the Committee within period of fifteen days from the date of the receipt of a copy of this order, whereupon, it is expected from the Bihar Advocate Welfare Trustee Committee to consider the review application in accordance with the provisions of law, keeping in view the fact that the membership of the above mentioned two advocates, has been restored with retrospective effect.

Accordingly, with the above observation and directions, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	

