

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Order reserved on: 18.6.2018****Order delivered on: 22.6.2018****Writ Petition (C) No.369 of 2012**

Goutam Budha Agrawal, S/o. Late Shri Ram Krishna Agrawal, aged about 63 years, Occupation-Civil Court Stamp Vendor, Raipur, R/o. Purani Basti, Baniya Para, Raipur, Tahsil and District Raipur (CG)

----Petitioner**Versus**

1. State Bar Council of Chhattisgarh through Secretary, State Bar Council of Chhattisgarh, Old High Court Premises, Bilaspur (CG)
2. The Trustee Committee, Bar Council of Chhattisgarh, through Secretary, The Trustee Committee, Bar Council of Chhattisgarh, Old High Court Premises, Bilaspur (CG)
3. Sub Committee of Trustee Committee of the Bar Council of Chhattisgarh, through Secretary, Sub Committee of Trustee Committee of the Bar Council of Chhattisgarh, Old High Court Premises, Bilaspur (CG)

---- Respondents

 For Petitioner : Mr.Lavkush Kumar Sahu, Advocate
 For Respondents : Mr.Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. The petitioner is licensed stamp vendor selling stamps in District Court Premises, Raipur. He made an application to the State Bar Council for purchasing Adhivakta Kalyan Nidhi Stamp under Section 18 (2) of the Chhattisgarh Adhivakta Kalyan Nidhi Adniniyam, 1982 (hereinafter called as "the Act of 1982"). His application has been rejected by respondent

No.1/State Bar Council on the ground that such a stamp will be sold only through Bar Association and stamp vendor or any other authority is not eligible to sell such stamps. Feeling aggrieved against the order of the State Bar Council, this writ petition has been filed by the petitioner herein.

2. Mr.Lavkush Kumar Sahu, learned counsel for the petitioner, would submit that the State Bar Council has unnecessarily and unauthorizedly created monopoly in favour of the Bar Association(s) as by virtue of the provisions contained in Section 18 (2) of the Act of 1982, the petitioner being stamp vendor is eligible to purchase Adhivakta Kalyan Nidhi Stamp and sell it to the persons/concerned litigant and as such, the decision taken by the State Bar Council deserves to be set aside being arbitrary.
3. On the other hand, Mr.Amiyakant Tiwari, learned counsel for the respondents, would submit that in order to save tax evasion such a decision has been taken by the State Bar Council in larger public interest and as such, the decision has taken that Bar Associations who are selling Adhivakta Kalyan Nidhi Stamp in their places will sell such stamps in exclusion of others and any other person or agency including petitioner /stamp vendor will have no right to purchase and sell Adhivakta Kalyan Nidhi Stamp and decision of the State Bar Council is strictly in accordance with law and as such, the writ petition deserves to be dismissed.

4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. The Chhattisgarh Adhivakta Kalyan Nidhi Adhiniyam, 1982 has been enacted for constitution of welfare fund for running various schemes for social security and welfare of the advocates in the State of Chhattisgarh and matters connected therein or incidental thereto. Chapter VI of the Act of 1982 provides for stamps and their distribution. By virtue of the provisions contained in Section 18 of the Act of 1982, power of printing Adhivakta Kalyan Nidhi Stamps has been conferred to the State Government who shall on the requisition of the State Bar Council print the adhesive stamps bearing the words “Madhya Pradesh Adhivakta Kalyan Nidhi Stamp” of proper value for being supplied to the Bar Council for distribution and sale on commission basis. Section 18 of the Act of 1982 states as under:-

“18. Printing of Madhya Pradesh Adhivakta Kalyan Nidhi Stamps.- (1) The State Government shall on the requisition made by the Bar Council of Madhya Pradesh, print or cause to be printed in such form and in such manner as may be prescribed in consultation with the Bar Council, adhesive stamps bearing the words “Madhya Pradesh Adhivakta Kalyan Nidhi Stamp” of the value of four rupees and ten rupees for being supplied to the Bar Council for distribution and sale on commission basis.

(2) Any Bar Association or Stamp Vendor who purchases Adhivakta Kalyan Nidhi Stamps worth-

(a) one thousand rupees or more from the counter of the Bar Council shall be entitled for a commission of ten percent; and

(b) less than one thousand rupees or through Postal Service shall be entitled for a commission of five percent.”

By virtue of sub-section (2) of Section 18 of the Act of 1982, Stamp Vendor/Bar Association both are entitled to purchase Adhivakta Kalyan Nidhi Stamp from the State Bar Council to sell/supply to litigants/Advocates and the State Bar Council has been made distributor for sell of said stamps.

6. A focused glance of the aforesaid provision would show that the legislature has consciously made eligible to two class of person to sell such stamps. Firstly, Bar Association registered under Section 16 of the Act of 1982 and secondly, Stamp Vendor registered under the provisions of the Indian Stamp Act, 1899 from the State Bar Council and sale it on commission basis to all concerned. In the aforesaid provision of the Act, power has been conferred to the Bar Association or Stamp Vendor to purchase Adhivakta Kalyan Nidhi Stamp and sale it to the litigant/lawyer who is in need of such stamps as it has to be necessarily affixed in the Memo of Appearance/Vakalatnama by virtue of the provisions contained in Section 19 of the Act of 1982. No express power has been conferred to the State Bar Council to restrict sale of said Adhivakta Kalyan Nidhi Stamp only to Bar Association(s). It can be purchased for sale by any Bar Association registered under the Act or Stamp Vendor duly licensed. Section 18(2) of the Act of 1982 has been inserted in the Advocate Act by Act 16 of 1999 w.e.f. 5.5.1999 making two class of person eligible to

purchase and sell such stamps, as such, in absence of legislative sanction authorizing the State Bar Council to restrict sale and supply of such stamps only to the Bar Association(s) in any or all the places, the State Bar Council in exercise of powers under Section 18(2) of the Act of 1982 cannot restrict sell and supply to any Bar Association creating monopoly in their favour, which is completely contrary to the provisions contained in Section 18(2) of the Act of 1982.

7. Reverting to the facts of the present case, undisputedly, the petitioner is stamp vendor registered under the provisions of the Indian Stamp Act, 1899 and therefore, eligible to purchase Adhivakta Kalyan Nidhi Stamp from the State Bar Council and the State Bar Council is obliged to sell/supply of Adhivakta Kalyan Nidhi Stamp to the petitioner/stamp vendor and as such, the action of the State Bar Council in restricting sale and supply of Adhivakta Kalyan Nidhi Stamp to only Bar Association creating monopoly in their favour is plainly arbitrary and totally unauthorized in law.

8. As a fall-out and consequence of the aforesaid discussion, the impugned order order 10.10.2011 (Annexure P/1) and resolution No.1 dated 3.9.2011 being contrary to law are hereby quashed. Respondent No.1/State Bar Council is directed to supply Adhivakta Kalyan Nidhi Stamp to the petitioner subject to furnishing certificate by the petitioner that he is duly registered stamp vendor under the law.

9. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (C) No.369 of 2012****Petitioner**

Goutam Budha Agrawal

Versus**Respondents**State Bar Council of Chhattisgarh
and others

(Head-note)

(English)

Stamp Vendor is also eligible to purchase 'Adhivakta Kalyan Nidhi Stamp' from Chhattisgarh State Bar Council.

(हिन्दी)

स्टाम्प विक्रेता छत्तीसगढ़ राज्य अधिवक्ता परिषद से 'अधिवक्ता कल्याण निधि स्टाम्प' के क्रय हेतु भी पात्र है।