

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.19529 of 2018

ORDER:

In the present writ petition challenge is to the proceedings in Roc.Ele 53/2018, dated 23.05.2018 issued by the third respondent/The Bar Council of State of Andhra Pradesh.

2. In the said proceedings, the third respondent informed the petitioners that their names were not included in the voters list for ensuing Bar Council Elections on the ground that they did not adhere to instructions of the Bar Council of India vide letter BCI:D:4227/2017, dated 30.8.2018.

3. Heard Miss A.Vishala, learned counsel for the petitioners, Smt.S.Nanda and Sri G.M. Moinuddin for the respondents 2 and 3 respectively apart from perusing the material available before the Court.

4. According to the petitioners they got through the LLB Examinations in the year 2016 and in the months of August and September they got enrolled as advocates with the Bar Council of the State of Andhra Pradesh. As per the Rules in order to have a Certificate of Practice from the Bar Council of India they need to get through All India Bar Council Examination, which would be held twice in a year. Pursuant to the notification issued in the month of January, 2017, the Bar Council of India conducted AIBE-X exam in the month of February 2017 and the petitioners herein appeared for the said examination and the results were declared on 12.06.2017 and according to the petitioners they got through the said examination. According to the learned counsel for the petitioners the impugned action of non-inclusion of the names of the petitioners herein in the final Electoral List is highly arbitrary, illegal, unreasonable and is in violation of Bar Council of India Rules. It is further submitted by the learned counsel that

there are certain lapses on the part of Bar Council in holding the elections also.

5. On the contrary, it is submitted by the learned Advocates for the respondents 2 and 3 that there is absolutely no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the questioned action is not amenable for any judicial review under Article 226 of the Constitution of India. In elaboration, it is further submitted that as per Rule 8 of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 the petitioners are required to have their Certificate of Practice verified and they need to file a declaration to the said effect as per instructions of the Bar Council of India dated 30.08.2016. In elaboration, it is further submitted that without complying with the said mandatory requirements, the petitioners herein cannot question the impugned action nor they are entitled to assail the process of elections.

6. It is never the case of the petitioners herein that as per the proceedings of the Bar Council of India dated 30.08.2016 read with Rule 8 of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 they sought verification of the Certificate of Practice from the State Bar Council. In this context, it is appropriate to refer to Rule 8 of Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015, which is extracted hereunder:

“8. Application for verification of “Certificate to practice and place of Practice” by advocates enrolled on or before June 12, 2010:

8.1 An advocate graduating in law in academic year 2009-2010(1st July, 2009 to 30th June, 2010) and thereafter, enrolled on the “Roll of Advocates” on or after June 12, 2010, is required to apply for issuance of “Certificate of Practice” under All India Bar Examination Rules, 2010 and for verification of such “Certificate of Practice” from the State Bar Council in which he/she is enrolled as an advocate under Rule 9.

8.2 An advocate having obtained graduate degree in law before the academic year 2010 enrolled on the “Roll of Advocates”, is

required to apply for verification of "Certificate of Practice and place of practice" from the State Bar Council in which he/she is enrolled as an advocate under this rule within a period of 6 months of the enforcement of these Rules/date of enrolment.

8.3 Every application for issuance of verified Certificate of Practice shall be submitted in the prescribed format as given in Form A Column I and Column II annexed with these Rules disclosing all the necessary informations as required there under to the State Bar Council, with which he/she is enrolled.

8.4 Every such application shall be accompanied by the following documents, certificates, declaration, fee etc: - i. Verification fee/process fee in the sum of Rs.100/- (rupees one hundred only) by way of Bank Drafts/Account payee bank cheque or cash in the name of :- a. Secretary State Bar Council, with which the applicant is enrolled (or it may be paid in cash also);

8.5 That the aforesaid application may be filed by the applicant along with all the aforesaid documents either by hand in the Office of the State Bar Council against proper receipt or send to the Secretary under registered post or through the Bar Association, of which he/ she is a member."

7. As per Rule 9 (2) of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015, an application for verification is required to be filed in Form-A annexed to the said Rules. In the instant case, there is absolutely no evidence to show that the petitioners herein applied for the same. Precisely, the same is the reason assigned in the impugned order dated 23.05.2018. Since the petitioners herein did not comply with the said mandatory requirement, this Court has absolutely no scintilla of hesitation to hold that the petitioners herein have failed in making out a case warranting interference of this Court under Article 226 of the Constitution of India.

8. For the aforesaid reasons, the writ petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:13.06.2018
grk



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



WRIT PETITION 19529 of 2018

Dated: 13.06.2018

grk