

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

219

**CWP No. 4387 of 2017
Date of Decision: 3.4.2018**

Shiv Mohan Sharma**.....Petitioner****v.****Bar Council of Punjab and Haryana and another****.....Respondents****CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN**

Present:- Mr. Vijay Rana, Advocate, for the petitioner
 Mr. Harshit Jain, Advocate, for respondent No. 1
 Ms. Promila Nain, Advocate, for respondent No. 2

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of mandamus for seeking a direction to respondent No.1 to take appropriate action against respondent No.2 (a practicing advocate at Ludhiana) after proper verification of his provisional degree, as according to him, respondent No.2 is not having the genuine degree of Bachelor of Laws.

On the date of preliminary hearing i.e. 3.3.2017, the following order was passed by this Court :-

“Petitioner seeks an action against an advocate by the Bar Council of Punjab and Haryana on the allegation that the decree of said advocate is fake.

Counsel for the petitioner has not been able to satisfy this Court regarding the legally enforceable right available to the petitioner against a professional. Counsel has been asked to seek instructions if the petitioner is ready to deposit a sum of Rs.1 lac with the Bar Council of Punjab and Haryana with an undertaking that in case the allegations are found to be false, the amount will be forfeited.

For preliminary hearing, adjourned to 29.3.2017.”

“Counsel for the petitioner submits that petitioner is ready to deposit the amount of Rs.1 lac with the Bar Council of Punjab and Haryana, in the shape of bank draft within a period of 7 days. The receipt of the same be placed on record in the Registry.

Notice of motion to respondent No.1 for 23.8.2017, subject to deposit of the said amount with the Bar Council of Punjab and Haryana, for a report whether on the basis of allegations mentioned in the representation Annexure P2, the respondent No.2 is not eligible to be enrolled as an advocate with the Bar Council.

Notice be also issued to respondent No.2 for said date. Respondent No. 2 may bring the relevant material to the notice of the Bar Council of Punjab and Haryana by 26.5.2017, showing that there is no ineligibility conferred on him and that he is entitled as per the rules. The report be submitted by Chairman, Bar Council Punjab and Haryana by next date of hearing regarding eligibility of the petitioner to apply for and hold the licence from Bar Council. The amount of bank draft may be encashed by the Bar Council. In case the allegations are found to be wrong, the petitioner will be liable to compensate respondent No.2 with a sum of Rs.2 lacs besides a sum of Rs.1 lac deposited with the Bar Council of Punjab and Haryana.

In case the amount is not deposited, this petition will be deemed to have been dismissed.”

The respondent Bar Council has placed on record the report tendered by the Chairman as per which respondent No.2 has been issued the provisional as well as original degree by the Lucknow University, Lucknow, which have been deposited by him with the Bar Council and on the basis of which license to practice was issued under the Advocates Act, 1961. It is submitted that degree submitted by respondent No.2 has been found to be genuine and the case filed by the petitioner found to be totally frivolous.

After hearing learned counsel for the parties, I am of the considered opinion that the petitioner has initiated a false litigation against respondent No. 2, a practicing lawyer, challenging his degree, obtained from

the Lucknow University, Lucknow.

Not only the petitioner is hereby warned to desist from filing these frivolous petitions in future but also the amount of Rs.one lakh is ordered to be paid to respondent No.1 as costs.

The present petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

3.4.2018
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No