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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1791/2018 & CM Nos.7395-96/2018

MOHIT KUMAR GUPTA Petitioner
Through : Petitioner in person.

versus

THE BAR COUNCIL OF INDIA (BCI) Respondent
Through : Mr. Umesh Joshi, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER
% **26.02.2018**

CM No.7396/2018 (exemption)

1. Allowed subject to just exceptions.

W.P.(C) 1791/2018 & CM No.7395/2018

2. Issue notice. Mr. Umesh Joshi accepts notice on behalf of the respondent .

2.1 In view of the order I propose to pass learned counsel says he does not wish to file a counter affidavit in the matter and he will argue the case on the basis of record presently available.

3. The petitioner, who appears in person, had registered for the All India Bar Examination – XI on 12.10.2017. The petitioner says that he was made to agree to certain conditions which were incorporated in the application form. The petitioner avers that acceptance of the conditions referred to in the application form was essential as without it the examinee would not have been able sit in the examination. The conditions qua which the petitioner has a grievance read as under:

“If I lose the case lodge/filed by me, I shall pay the entire cost of litigation, because I am aware of the fact that B.C.I is not a profit making institution rather it serves the legal professional, without any assistance of any outside agency of government. I undertake to abide by the decision of B.C.I.; and for any revaluation of Answer Sheet, I shall not take shelter of provisions of RTI act, rather I shall pay the proper charges/fee fixed by B.C.I. for this purpose.

For redressal of any grievance with regard to examination, issuance of admit card, publication of result, I shall not make any application/claim or R.T.I application after 20 days of cause of action and/or as the case may be, I shall not be entitled to make any grievance after the period fixed by B.C.I. on its website i.e. www.barcouncilofindia.org” and no study material is to be supplied for A.I.B.E.”

4. It is submitted by the petitioner that BCI has taken upon itself, an adjudicatory role and has gone to the extent of fixing time limit within which an application, of the nature contemplated, under RTI Act, 2005 can be filed. According to the petitioner the limitation prescribed is in the teeth of the provisions of the RTI Act, 2005.

4.1 Furthermore, the petitioner says that, as a matter of fact, once a candidate sits in the examination, there is no proof available with him of having taken the examination as no endorsement is made on the admit card.

4.2 Similarly, the petitioner says that a BCI cannot have a condition incorporated in the application form that a candidate will not claim costs of litigation if he were enter into a lis with BCI.

5. On the other hand, learned counsel for BCI says that BCI has constituted a Monitoring Committee which is headed by Ms. Justice Gian Sudha Mishra, a former judge of the Supreme Court of India. It is the learned counsel’s suggestion that the petitioner’s writ petition can be treated as a representation and, possibly, his grievances can be redressed by the Monitoring Committee.

6. In these circumstances, the writ petition and application are disposed of with a liberty to the petitioner to approach the Monitoring Committee. I am told that the Monitoring Committee has convened a meeting, today, at 12:30 pm. The Monitoring Committee will hear the petitioner and pass appropriate directions, if thought fit, concerning the grievances of the petitioner as articulated in the writ petition.

7. No costs.

RAJIV SHAKDHER, J

FEBRUARY 26, 2018
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