IN THE HIGH COURT OF JUDICATURE AT MADRAS
[THROUGH VIDEO CONFERENCING]

DATED : 07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. No.26841 of 2018
and
W.M.P. Nos.31190 and 31191 of 2018

G.Nallamuthu ... Petitioner

Vs.

1.The Chairman,
Bar Council of Tamil Nadu & Puducherry,
High Court Buildings,
Chennai - 600 104.

2.The President,
Dharmapuri Bar Association,
Combined Court Building,
Thadangam,
Dharmapuri.

3.The Secretary,
Dharmapuri Bar Association,
Combined Court Building,
Thadangam,
Dharmapuri.

4.The Election Officer,
Dharmapuri Bar Association,
Combined Court Building,
Thadangam,
Dharmapuri. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned election notification dated 03.10.2018 issued by the 4th respondent for the office bearers of Dharmapuri Bar Association scheduled to be held on 26.10.2018 based on the unapproved amended bye-law to quash the same and consequently direct the 4th respondent to conduct the election based on the original bye-law dated 09.01.1987.

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For Petitioner : Mr.C.Prabakaran

For 1st Respondent : Mr.N.Rajan

For Respondents 2 & 3 : Mr.Shanmuga Sundaram
Senior Counsel
for Mr.R.Thamarai Selvan

For 4th Respondent : Ms.H.Bhargavi

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN,J.)

The petitioner, who is a practising Advocate having enrolled his name with the first respondent and practising before the Courts in Dharmapuri, has come before this Court challenging the election notification dated 03.10.2018, by which, the election is sought to be held based on unapproved amended bye-law of the Dharmapuri Bar Association.

2. According to the petitioner, there was no bar experience fixed as per old bye-law for contesting election for the office bearers, but in 2015, the General Body approved the new bye-law, by which the bar experience has been prescribed. According to him, based on the unapproved bye-laws, if the election is held, only a few candidates alone would be able to contest for the posts of President, Vice President and other important posts and the juniors will not be in a position to take part in the election.

3. Heard Mr.C.Prabakaran, learned counsel for the petitioner; Mr.N.Rajan, learned counsel for the first respondent; Mr.R.Shanmuga Sundaram, learned Senior Counsel for the respondents 2 and 3 and Ms.H.Bhargavi, learned Counsel for the fourth respondent.

4. A perusal of the original bye-law would disclose that there was no bar experience for contesting the post of office bearers. Based on the experience gained in the practice, is sought to be prescribed as qualification to contest the election. Hence, the General Body thought it fit to amend the bye-laws by prescribing certain bar experience for important posts, like President and Vice President. This Court took into account the fact that the enrollment of new advocates out-numbered the experienced Advocates. If sufficient bar experience is not prescribed, only junior members alone will be in a position to get elected for the important posts. The posts of President, Vice President and Secretary require experience in the profession. They have to interact with the Judicial Officers and the Government officials also. In case of any dispute also, their role is important. It is also a fact that a number of

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disputes arise between the Police and the Advocates. If only experienced persons are elected as office bearers, they would be in a better position to sort out the dispute smoothly. If youngsters are elected, they may not be able to understand the gravity of the issue and there is a chance for taking a wrong decision also.

5. In the instant case, the second respondent Association rightly took a decision to prescribe bar experience for contesting certain posts. In this regard, the General Body has already taken a decision. The following is the experience prescribed by the General Body as qualification to contest the election:

"1. President - 25 years
2. Vice President - 20 years
3. Secretary - 15 years
4. Treasurer - 10 years
5. Joint Secretary - 10 years
6. Librarian - 5 years"

If the above experience is prescribed, it seems that many Advocates could not have such experience and many Advocates may not be qualified. Therefore, to strike a balance, this Court directs the respondents to prescribe following years of bar experience/qualification for contesting for the respective posts:

1. President - 20 years
2. Vice President - 18 years
3. Secretary - 15 years
4. Treasurer - 10 years
5. Joint Secretary - 10 years
6. Librarian - 5 years

6. The General Body of Dharmapuri Bar Association shall frame the bye-laws prescribing the above year of bar experience for the post as prescribed above. This will enable the Association to have fine mixture of both experienced and juniors as office bearers. The above qualification shall take effect from the next election. Hence, the Bar Association shall convene a General Body Meeting during October 2019 to amend the earlier bye-laws as amended by this Court.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sj

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To
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Dharmapuri Bar Association,
Combined Court Building,
Thadangam,
Dharmapuri.

+1cc to Mr.R.Thamarai Selvan , Advocate SR.No. 21550
+1cc to Mr.C.Prabakaran , Advocate SR.No. 21868
+1cc to Mr.N.Rajan , Advocate SR.No. 22486

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and
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A.SK(12/04/2019)

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