

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14434 of 2020

B.Sathishkumar

..Petitioner

-vs-

- 1.The Secretary to Government,
Department of Personnel and
Administrative Reforms (P&AR),
Fort St. George,
Chennai - 600 009.
- 2.The Secretary to Government,
Law Department,
Secretariat, Chennai.
- 3.The Registrar General,
High Court of Madras,
High Court Buildings,
Chennai - 600 104.
- 4.The Bar Council of India,
rep. by its Chairman,
No.21, Rouse Ave Institutional Area Road,
New Bal Bhawan Rouse Avenue,
Mata Sundari Railway Colony,
Mandi House, New Delhi - 110 002.
- 5.The Bar Council of Tamil Nadu,
rep. by its Chairman,
High Court Buildings,
Chennai - 600 104.
- 6.Poornima,
The Registrar (Vigilance),
High Court of Madras,
High Court Buildings,
Chennai - 600 104.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Quo Warranto as to under what authority the 6th respondent holds the post of Registrar, Vigilance, and to restrain the 6th respondent from continuing in the said post and remove the 6th respondent from the post of direct District Judge since the 6th respondent who does not possess the valid qualification as per the G.O.Ms.No.107 dated 18.08.2009, as per the Article 229 of Constitution of India.

For Petitioner : Mr.P.Vijendran
for M/s.K.Ashok Kumar

For Respondents : Mr.V.Vijay Shankar
for respondent No.3

: Mr.C.K.Chandrasekar
for respondent No.5

ORDER

(Order of the Court was made the Hon'ble Chief Justice)

Heard Mr.P.Vijendran, learned counsel, who informs the Court that he has been engaged by Mr.K.Ashok Kumar, who is the counsel on record, to argue this petition on the instructions received from the petitioner, who is also present along with both the counsel at the time of the hearing that proceeded through virtual court.

2. We have also heard Mr.v.Vijay Shankar, learned counsel for the High Court and Mr.C.K.Chandrasekar, learned counsel for the Bar Council of Tamil Nadu.

THE QUO WARRANTO PLEA:

3. This case has a peculiar tenor and, therefore, in order to satisfy ourselves as to whether the averments made in the writ petition which is for a quo warranto, or the news that was being circulated in print and social media as well as in the national newspapers for the past few days of the correctness or otherwise of the qualification of the sixth respondent were correct or not, we as guardians of this judiciary were under a bounden duty to verify such a serious allegation if made by the petitioner, who claims himself to be a practising advocate. Accordingly, we summoned the records from the office of the Registrar General to verify the correctness of the pivotal allegation made in the writ petition about the sixth respondent having not passed +2 Examination, i.e., 12th Class Examination.

4. The petitioner, in paragraph (8) of the writ petition, has stated as under:

"8. I further submit that the appointment of the 6th Respondent is not valid since the 6th Respondent did not possess the basic qualification as the 6th Respondent did not undergo +2 and the 6th Respondent had directly undergone the correspondence course in the University of Madras without +2 and thereafter studied in the JSS Law College, Mysore without attending the college in a regular manner since the 6th Respondent had been serving as an Advocate Clerk at Ooty in the office of one Mr. Krishnamurthy and the 6th Respondent had attended the college only for the examination and the Bar Council also did not verify the qualification of the 6th Respondent and the same was not valid in the eye of law for appointment of judicial Post."

5. In Grounds (c) and (d), the petitioner states as under:

"c. It is also pertinent to note down the fact that the certificate produced by the 6th Respondent are self attested and no self attestation of certificate by individual is not allowed till 2014 since the G.O.Ms.No.96 dated 23.09.2014 had been introduced by abolition of attestation of certificates by Gazette Officer and the Petitioner appointment was during the year 2010 in which the Petitioner has to get attestation from any official and the 6th Respondent had submitted only the self attested copies of the certificate which is not allowed during such period.

d. The 6th Respondent does not satisfy the rules framed by the High Court in exercise of powers conferred under Article 209 of the Constitution of India without obtaining the basic +2 qualification such degree having not been recognized under the rules framed by the High Court the Respondent cannot hold the present post which is highly illegal in nature."

6. The documents which have been filed in support of the affidavit of the petitioner are photostat copies of the Secondary School Cumulative record, the Transfer Certificate from the College at Mysore where the sixth respondent completed her LLB Third Year, as well as the Provisional Certificate. But the petitioner has deliberately not disclosed as to from where he obtained these documents. He has, however, certified that the said are true copies of the originals. There is nothing on

record throughout the entire affidavit and the pleadings of the petitioner as to what source was tapped by him to obtain these certificates of the sixth respondent, and as to what source he tapped or any effort made on his part to obtain the correct information of the academic qualifications of the sixth respondent.

7. We may safely presume that the petitioner, who claims himself to be a practising advocate and has shed his cloak to become the petitioner in person himself, is aware that such records pertaining to the service of an officer are maintained in the High Court itself and the educational qualification records are also verified at the time of appointment.

8. Apart from the above, the petitioner, who claims himself to be a lawyer, must have got himself enrolled with the Bar Council, and the Bar Council of the State also has the records from where it could be verified about the exact nature of the qualifications - either by an information officially, or even under the the Right to Information Act. There is nothing on record to demonstrate that the petitioner made any effort to approach this Court while making such a serious allegation after beating his drums in the press to the same effect. The writ petition, therefore, appears to be a product of a deliberate and organized misrepresentation with falsehood as its foundation. The petitioner has also disclosed and knows that the sixth respondent is occupying a sensitive post in the High Court of that of a Registrar Vigilance and it is, therefore, apparent that the petitioner appears to have resorted to pure falsehood by filing an incorrect and false affidavit that the sixth respondent has not completed her 12th Standard examination before seeking University education. This is not only perjury, but a clear act to defile the image of the entire judicial system as if the High Court has employed a totally unqualified person. This spreading of false information by the petitioner and then converting it into a patently false affidavit is writ large on the face of the entire pleadings.

9. It is not that the petitioner is unaware about the resources from where the status of the educational qualifications of the sixth respondent could have been safely gathered, but he deliberately has framed his affidavit to display the sixth respondent as an object of false criticism singling out the sixth respondent amongst thousands of judicial officers throughout the State with a view to unsettle the mind of the public at large and to satisfy his own personal self-defined role of some sort of whistle-blower.

10. Learned counsel for the petitioner has advanced his submissions based on the judgment in K.Sakthi Rani v. Secretary, Bar Council of Tamil Nadu, (2010) 4 MLJ 849, to contend that it has been held by this Court following the judgment of the Apex Court that a Degree obtained without having passed the 10+2 curriculum would not be an eligibility qualification for employment, more particularly in the State of Tamil Nadu, where special qualifications are required to be possessed in terms of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

11. We, after having heard the learned counsel, had fore-cautioned him that he should consult his client and let the Court know as to whether the petitioner is prepared to take the responsibility of his averments, which if turning out to be false, may lead to serious consequences which he may have to reap for having set up this petition of quo warranto.

12. The learned counsel, in our direct sight through the video-conferencing, consulted the petitioner and also the learned counsel who had engaged him for arguing the present petition and then informed the Court that the petitioner takes full responsibility of the averments made by him in the writ petition. On a specific query made by the Court as to how and in what manner did the petitioner come to know about the inadequacy of the qualification as alleged, Mr.Vijendran again consulted the petitioner and orally submitted that he had made some effort to receive information, which was not supplied, and, therefore, the petitioner was certain that the sixth respondent was not possessed of the qualification of having passed the 12th Standard, namely the Higher Secondary Course. The petitioner, in our opinion, was making a veiled pretense about not having the knowledge of the educational qualifications of the sixth respondent. This, in our opinion, is a clear case of suggestio falsi and suppressio veri, where the petitioner has on record brought certain documents, which in no way reflect that the sixth respondent had not passed her 12th Standard. Thus, we find no material to treat the petitioner being innocent or ignorant of any such fact. We have every reason to believe that the petitioner in the circumstances indicated above has chosen to file a false affidavit before this Court so as to gain orders of publicity, rather than any effort to pursue the path of truth.

13. We, in abundant caution, again requested the learned counsel repeating our grave concerns about the manner in which the petitioner had approached the media for the publicity of his petition filed before the Court might end up in grave and

serious repercussions if the statement is found to be false, and Mr.Vijendran again reassured us that the stand taken by the petitioner on his instructions is correct and he is prepared to accept the consequences. Our repeated efforts were to somehow or the other infuse a sense of responsibility in the petitioner, who was present along with his counsel, but the only impression that we could gather was his obstinate and adamant stand on the falsehood of his allegations, which we proceeded to discover and is being narrated herein under.

14. In the light of the extensive arguments that were advanced by the learned counsel for the petitioner, we have carefully perused the records which are available in the High Court, and what we find is startling and just contrary to what has been pleaded in the writ petition. The verification by the High Court of original certificates/testimonials at the time of the entry of the sixth respondent in the State Judicial Services dated 14.2.2011 is extracted herein under:

"Direct Recruitment of District Judge (Entry level)
in the TNSJS
VERIFICATION OF ORIGINAL CERTIFICATES/TESTIMONIALS
OF
Thiru/Tmt./Selvi R.POORNIMA

1. Name (in Block Letters) : R.POORNIMA
with Registration No.

2. Father's / Husband's Name : Thiru Rajasekar
(Late)

3. Gazette Notification for proof of : -
Name change, if any

4. Age & Date of Birth : 3.7.1966 (44
years)

5. Mother Tongue : Tamil

6. Academic Qualification

(i) S.S.L.C. Book No./Higher : Mar-1982 A
1469210 X Secondary/Equivalent Std.
Apr-1984 A 316047
XII Std.

(ii) B.A.,/B.Sc.,/B.Com., : B.Com. - May 1989

(iii) Post Graduation* / Higher:
Qualification, if any

(iv) B.L., / L.L.B., : LLB-University of
Mysore

(v) Duration of Law Degree : May 1999
Three years 1996 - 1999

(vi) Post Graduation in Law/ : -
Higher qualification, if any

7. Enrolment Certificate No. and : 1289/1999
dt. 8.9.1999
date of Enrolment

8. Bar Experience Certificate : Ten years

9. Community Certificate : Hindu Sozia
Vellaler
GT/SC (Arunthathiyar)/MBC/DNC/ B.C. 312810
dt. 13.7.1994
BC (other than BC Muslims)/SC/
BC (Muslims)
(except G.T., whether Community
Certificate has been enclosed in
the case of Others)

10. Other Certificates (if any) : -

11. If the candidate is an Income : Nil
Tax Assessee, whether copies of
3 years I.T. Returns have been
enclosed alongwith the
Application

12. Whether the candidate is :
involved in any Litigation Civil/ No (as per the
Criminal application)

13. Whether the candidate has : No (as per
come up for Adverse notice of the application)
the Police/Bar Council

SIGNATURE OF THE
CANDIDATE
DATE : 14.2.2011

SIGNATURE OF THE VERIFYING
OFFICER:
HIGH COURT, MADRAS
DATE:

*NOTE: If the candidate has passed M.A., whether
he/she has passed the said degree after passing the
basic degree (under 10 +2 patten) or passed M.A.,
thro' Open University System without obtaining the
basis degree (under 10 +2 pattern)"

15. Against Column No.6 there is a clear mention about 12th Standard Examination having been passed by the sixth respondent. We have crosschecked it with the photostat copy of the certificate which was supplied at the time of verification, and which is as follows:

CERTIFICATE S.NO.A316047		
DEPARTMENT OF GOVERNMENT EXAMINATIONS, MADRAS 600 006		
HIGHER SECONDARY COURSE CERTIFICATE GENERAL EDUCATION		
ISSUED UNDER THE AUTHORITY OF THE GOVERNMENT OF TAMIL NADU		
Certified that R.POORNIMA appeared for the APRI, 1984 Higher Secondary Examination and obtained the following marks:		
SUBJECT	MARKS OBTAINED FOR 200	
TAMIL	124 ONE TWO FOUR	
ENGLISH	115 ONE ONE FIVE	
MATHEMATICS	071 ZERO SEVEN ONE	
ELEMENTS OF ECONOMICS	162 ONE SIX TWO	
ELEMENTS OF COMMERCE	125 ONE TWO FIVE	
ACCOUNTANCY	114 ONE ONE FOUR	
TOTAL MARKS: 0711 ZERO SEVEN ONE ONE		
DATE OF BIRTH 03.07.66	REGISTER NO. 672816	TMR CODE NO. & DATE G056297 07.06.84
SCHOOL BETHLEHAM G HSS OOTY		
MINIMUM FOR A PASS: 70 MARKS OUT OF 200 IN EACH SUBJECT. THIS INCLUDES PASSING UNDER THE COMPARTMENTAL SYSTEM ALSO.		

SD/-
Candidate's
Signature

SD/-
Secretary
BOARD OF HIGHER SECONDARY EXAMINATION
TAMIL NADU

16. We also summoned the original certificate, which was available and the photostat copy, which is pinned with the verification records, exactly tallies with the original certificate that has been produced.

17. It is, therefore, more than evident that the petitioner for his best motivated reasons has deliberately pleaded a false fact before this Court not only to dislodge the sixth respondent from her office, but also to malign her and to make defamatory statements as if the sixth respondent has usurped office without being possessed of the basic qualifications. It is clearly an irresponsible act on the part of the petitioner to have made such a statement without any such verification.

18. We have thoroughly satisfied ourselves, as demonstrated above, after going through the entire records which are preserved in the High Court that the sixth respondent did not suffer from any ineligibility at the time of her selections or even today for holding the office of a Judicial Officer in the Subordinate Judiciary of the State of Tamil Nadu. The entire writ petition is an outcome of patent falsehood pleaded, which is worse than a house of cards and a castle built of sand. The clear and deliberate omission of the correct qualifications of the sixth respondent coupled by a false statement that she was not possessed of the qualification of 12th Standard pass is just like raising a construction by laying down the foundations, where there is only shifting sand and no cement. The entire edifice of the allegations is a monument of falsehood monstrosly created by the petitioner for knocking at the roots of the judicial system and the entire judiciary, as the petitioner has attempted to dislodge an important functionary of the High Court, that too even a lady officer, who has reportedly served the institution to the best of her integrity, honesty and devotedness. When we proceed further in the matter, we will deal with the veiled intentions and the possible reasons for this writ petition to have been staged by the petitioner not only to scandalize and malign the image of the judiciary, but also to settle scores, which may be a motivated design. The petition, therefore, deserves outright dismissal.

EXEMPLARY DAMAGES:

19. Before we conclude, we may also point out that the petitioner has a past history of filing frivolous litigation. The petitioner had filed W.P.No.4536 of 2018 [B.Sathish Kumar v. State] claiming himself to be a practising lawyer and taking up the cause of public. The said writ petition was dismissed on 6.1.2020, this year itself, and though the Court was of the opinion to award costs, it opined in paragraph (9) as under:

"9. Though this Court is intended to award costs, in the light of the fact that the petitioner claims to be a practicing lawyer, gives him one more opportunity not to indulge in any such vexatious exercise. No costs."

20. This is a matter of record and the petitioner appears to be habitual in indulging in such activities and filing writ petitions which tell upon his extra-professional activities, which deserves to be dealt with severely. In the present case, patent falsehood has been taken shelter of to tarnish an almost ten year old service of the sixth respondent in the rank of a District Judge, and as found above, by a reckless exercise at a time when the judiciary and Judges are being criticized, and thereby creating an aggravated atmosphere of animosity and depravity about the officer and her career. This is a colossal irreparable damage, in our opinion, in respect of a responsible officer of the subordinate judiciary, who was simply discharging her duties as Registrar Vigilance of the High Court, but may have been targeted by the petitioner for many variable reasons. However, to target her on the strength of falsehood is not only spreading disrepute about her, but is also a mental torture that is unimaginable, and the person who has been put to such a psychological stress may be in a far better position to respond, but we, in our exercise of jurisdiction as protectors of the judicial system and also the dignity of the office of a Judge, find it necessary while exercising this jurisdiction of parens patriae to gauge the intensity and the depth of damage that may have been caused or even continue to shadow her future career because of the vexatious and false allegations made by the petitioner. This is not ordinary recourse to falsehood, in as much the allegations are against the Officer who is to discharge the duty of search for truth and justice. It is against an officer who is to discharge duties of the very character of the judicial system that is meant to separate truth from falsehood.

21. The petitioner fully realizing the consequences of such irreparable damage that can be caused to the sixth respondent, did not show any sense of responsibility or even remorse in spite of we having given him opportunities during the course of the hearing, and rather stuck to his firm stand of having rightly labelled the sixth respondent to be unqualified, and thereby holding a public office which she is otherwise not entitled to hold. Such cases are very rare and a writ of quo warranto is usually filed after ascertaining the correct status of the qualifications. The interpretation of a qualification may be a different issue, but not possessing the qualification at all is directly accusing the sixth respondent and indirectly the High Court as well of having secured employment through dubious methods. Such a sort of allegation has not only far-reaching effects in public and official life, but in private life as well, where it is not uncommon that with the spread of such news, social media starts trolling on the basis of such falsehood. The stretch of damage which has by now been caused with the publication of the news at the instance of the petitioner not only would have created doubts, but in some corners hatred as well, that may continue for long and would also be a matter of awkward embarrassment in future for the sixth respondent to face this ordeal.

22. This case, therefore, calls for imposition of heavy exemplary costs as the petitioner, who calls himself a lawyer, has chosen to accuse the very same Officer who occupies the office of a Judge in a manner, which, in our considered opinion, does not call for any leniency or concession. This is not a case of inadequate information, but is a clear case of false information served on a platter before this Court without any sense of responsibility through a false affidavit and wasting the precious time of the Court. The litigation is neither genuine nor bona fide and is clearly vexatious, designed for some oblique motive, or a desire to win notoriety and cheap popularity. It is clearly actuated by malice and is neither in the interest of the institution, nor in public interest. It does not serve any purpose, much less a lawful purpose. Such cases should, therefore, be dismissed with heavy costs in order to send a message that too much of curiosity kills the cat.

23. In order to maintain the purity and sanctity of the judicial system, it is expected from a Member of the noble profession of the bar, to present a petition with a degree of precision and purity. We find ourselves to be faced with a situation where the conduct of the petitioner is full of disappointment and is not short of disgrace. The potentiality of the damage done is an outcome of clear abuse of the process

of Court, where the petitioner did not bestow any care to file such a petition, and which was clearly intended to demean the very important judicial office occupied by the sixth respondent. As noted above, the petitioner had also earlier filed a petition, where he was fore-warned of a vexatious exercise and he was let off without awarding costs, but the petitioner does not appear to have taken a lesson from the same to mend his ways.

24. On a careful consideration of the entire gamut of facts, we, therefore, find it necessary to quantify the costs that may be commensurate to the nature of the damage caused by the petitioner, even though it may not be adequate enough.

25. We, therefore, dismiss this writ petition with Rs.5,00,000/- (Rupees Five Lakhs only) damages and costs to be paid by the petitioner to the sixth respondent within fifteen days from today. In the event the same is not paid, we direct the Collector of the District where the petitioner resides to realize the same as arrears of land revenue and to take such coercive steps for such realization as may be necessary under our orders and deposit the same before the High Court.

CRIMINAL CONTEMPT AND PROFESSIONAL CONDUCT:

26. We have extensively indicated above the falsehood pleaded by the petitioner. Such falsehood in the shape of affidavits have been held to be sufficient to draw a proceedings of criminal contempt as understood under Section 2(c) read with Section 14 of the Contempt of Courts Act, 1971. The false affidavit has been filed in the face of the Court, as concluded above. The Apex Court had the occasion to deal with such a situation in a reported decision of Sanjiv Datta, Dy. Secy., Ministry of Information & Broadcasting, In re, (1995) 3 SCC 619. The Apex Court not only held the person filing the affidavit, but also the person who drafted the affidavit to be responsible for the same. In paragraph (14), the following observation is made:

"14. On 9-2-1995 this Court issued a notice to Shri Kailash Vasdev, Advocate-on-Record for respondents in the writ petition, to show cause as to why he should not be proceeded against for the contempt of this Court for filing the said affidavit of the contemner, Shri Sanjiv Datta. The offence of contempt of the court is committed not only by those who author an offensive document but also by those who file it in the Court. In the present

case, it is not disputed that Shri Vasdev had filed the said affidavit.

In paragraph (19), commenting upon the legal profession and the casual manner in which affidavits are filed, the Apex Court observed as follows:

"19. They do not realise the seriousness of these acts and omissions. They not only amount to the contempt of the court but do positive disservice to the litigants and create embarrassing situation in the court leading to avoidable unpleasantness and delay in the disposal of matters. This augurs ill for the health of our judicial system."

27. Prima facie, the facts as discussed herein above call for an appropriate and prompt action to nip such practice in the bud. The petitioner disrobed himself from the status of a lawyer and took the cowl of an individual litigant by his own choice wearing the mantle of a whistle-blower. His intentions do not appear to have been inspired by any public weal, but by filing a false affidavit he prima facie has insinuated and eroded the edifice of the judicial system. A licence to practice law is a serious calling and to convert it into an engine of falsehood for an attempted vilification of a judicial officer may possibly be a calculated and conspiratorial move in the background that the sixth respondent happens to be the Registrar Vigilance of the High Court, who is also responsible for reporting deviant behaviour in the subordinate judiciary, or other matters where vigilance enquiries are set up. The sixth respondent holding this important office has been specifically marked as the bull's eye because she occupies the cornerstone of the judicial administration of the entire judiciary. There are innumerable ways of scandalizing the Court and causing public mischief, but the time and place, and the office which has been chosen by the petitioner to be targeted by filing a false affidavit prima facie appears to be a scheme and a design to damage the confidence of the public in the entire judicial system and demoralize the officers generally and lower the esteem of this Court in the eyes of the public. The sense of confidence which the people have in the administration of the justice is weakened and undermined in the event such attempts are ultimately found to be an outcome of conspiracy of the mind, or of some individuals in the background, or as in the present case directly by pleading falsehood. It is not only by pleading falsehood, but by also carrying out a tirade of these

insinuations in the media circles. We can take judicial notice of the English daily Times of India dated 9.10.2020, which reports as under:

"HC registrar not qualified to hold post, says quo warranto plea

TIMES NEWS NETWORK

Chennai: Noting that registrar (vigilance) of the Madras high court did not have the mandatory 10+2+3 formal/regular education, a lawyer has filed a quo warranto plea in the high court asking under what authority she has been holding the post.

B.Sathishkumar said registrar R Poornima, a district judge cadre judicial officer, is ineligible to hold the post as she had not completed Class XII, had done her graduation through distance mode and then studied law. Later, she was directly recruited as district judge part of the Tamil Nadu judicial service in 2010.

The petitioner also claimed that the registrar, who received her law degree from a private law college in Mysore, did not attend classes regularly and only appeared for exams as she was employed as an advocate clerk in Ooty at that time. "The bar council had also failed to verify her qualifications and its validity at time of her enrollment as an advocate," the petitioner said in his affidavit.

As per the affidavit, she was recruited as a district judge under direct recruitment on December 23, 2010. After serving as district judge in various places, she was then posted as registrar (vigilance) in the principal bench of the high court.

Even as per Tamil Nadu Government Servants (Conditions of service) Act, no person is eligible for appointment to public service (which requires degree) if they have not obtained a degree after completion of SSLC and HSC, the petitioner added.

As an interim relief, the petitioner wanted the court to restrain the registrar from holding the post pending disposal of the plea.

The petition, which has been numbered by the high court registry, is likely to be taken up for hearing next week."

28. There is a Tamil version of the Hindu daily dated 12.10.2020 to the same effect.

29. There might be many other social media trolls that may have added fuel to fire, thereby bringing the entire administration of the High Court to disrepute in having allegedly engaged a person who is unqualified. The organized manner in which the petition has been filed is clearly calculated to interfere with the proper administration of law and for vilifying the sixth respondent by filing a false affidavit. This conduct of the petitioner, prima facie, not only calls for taking action for criminal contempt, but also some interim measure to keep a check on the professional activities of the petitioner. The media has also let out a hand to the petitioner in spreading this news and, therefore, a time has come to take a call on the ethical professionalism of news reporters. This would be a matter of investigation in the criminal contempt proceedings, but we would only like to say that lack of objectivity for impartial reporting has seen a decline like in the present case and, therefore, it is high time that the question of impartial news being disseminated should be gauged and pondered over by all concerned as is evident from an article published in The Hindu, today itself, authored by an eminent Readers' Editor Mr. Paneerselvam of the said newspaper, where under the heading of "The lost meaning of objectivity", the author has observed as under:

"THE HINDU - dated 12.10.2020 - Page 9

From the Readers' Editor

The lost meaning of objectivity

In journalism we expect the method, and not the individual journalist, to remain objective.

.....

The question of 'impartiality'

On October 8, members of the Organization of News Ombudsmen and Standards Editors held an internal shop talk on the question of 'impartiality'. It was led by Tom Rosenstiel, Executive Director of the American Press Institute. Mr. Rosenstiel explained that in journalism we expect the method, and not the individual journalist, to remain objective. He said of the implications of this: "One is that the impartial voice employed by many news organisations, that familiar, supposedly neutral style of newswriting, is not a fundamental principle of

journalism. Rather, it is an often helpful device news organisations use to highlight that they are trying to produce something obtained by objective methods." He pointed out that objectivity as practised by journalists is to have a consistent method of testing information - a transparent approach to evidence. Expanding on this idea, Mr. Rosenstiel said: "The practice began as a way of injecting more scientific rigour into the practice of journalism, but instead it has turned into a devotion to false balance and other elements of what journalism professor Jay Rosen called 'the view from nowhere'."

Substantial charges of bias come from those who support governments and strong leaders. It would be unethical, lazy and unfair to readers if a news organisation is reduced to be an amplifier for those in power. Rasmus Kleis Nielsen, Director of the Reuters Institute and Professor of Political Communication at the University of Oxford, has an interesting twitter thread, "Misinformation often comes from the top, exhibit no. infinity", documenting how people in power play a big role in vitiating our news environment. Once the pandemic subsides, I hope to host an open house on this question of impartiality in journalism."

30. The petitioner has made the sixth respondent and the judicial administration of the High Court, prima facie, a victim of his present ideologue or notions founded on falsehood. We would have exercised restraint, but during the course of the hearing of the petition, the attitude of the petitioner was more defiant than responsible. This is also evident by his endeavour to reach to the press, which he thinks was the right way to vindicate his own scores.

31.1. The attack on judiciary and Judges, while describing it as "Judge bashing", the Apex Court observed such activities as a favourite pastime of some people in *Haridas Das v. Usha Rani Banik*, (2007) 14 SCC 1, paragraph (34) whereof is extracted herein under:

"34. There can be no quarrel with the proposition that anyone who intends to tarnish the image of judiciary should not be allowed to go unpunished. By attacking the reputation of Judges, the ultimate victim is the institution. The day the consumers of

justice lose faith in the institution that would be the darkest day for mankind. The importance of judiciary needs no reiteration."

31.2. To this end and in the background of the present case, we may also extract paragraph (29) of the said judgment, which is gainfully reproduced herein under:

"29. Considered in the light of the aforesaid position in law, a bare reading of the statements makes it clear that those amount to a scurrilous attack on the integrity, honesty and judicial competence and impartiality of Judges. It is offensive and intimidating. The contemnor by making such scandalising statements and invective remarks has interfered and seriously shaken the system of administration of justice by bringing it down to disrespect and disrepute. It impairs confidence of the people in the court. Once door is opened to this kind of allegations, aspersions and imputations, it may provide a handle to the disgruntled litigants to malign the Judges, leading to character assassination. A good name is better than good riches. Immediately comes to one's mind Shakespeare's Othello, Act II, Scene iii, 167:

Good name in man and woman, dear my Lord is
the immediate jewel of their souls; who
steals my purse, steals trash; 'tis
something, nothing; 'T was mine, 'tis his,
and has been slave to thousands; But he that
filches from me my good name,
Robs me of that which not enriches him
And makes me poor indeed.'"

32.1. We are reminded of a couple of paragraphs in the recent judgment of the Apex Court in In Re: Prashant Bhushan and Another, (2020) 7 MLJ 193 (SC), where in paragraphs (9) and (10) it has been held as under:

"9. During the course of the arguments, it was also brought to the notice of Shri Dhavan, learned Senior Counsel, the fact that prior to the supplementary statement of the contemnor dated 24.08.2020, before it being filed in the Court, it was widely published in media on 24/25.08.2020. It was also brought to the notice of Dr. Dhavan, learned Senior Counsel, that the contemnor had made various statements with regard to the present proceedings either in the press interviews or in the webinars, which have the

effect of influencing the present proceedings and as to whether such an act at the behest of a litigant was permissible in law.

10. Dr. Dhavan, learned Senior Counsel, fairly stated that publication of the supplementary statement of the contemnor in various print as well as other media in advance was not proper, and he also stated that no lawyer or litigant should either give an interview, talk to the press or make any statement with regard to pending litigation before any Court. He submitted that though a fair criticism of judgment after the judgment was pronounced was permissible in law, making any statement or giving press interviews during the pendency of the litigation was not permissible."

32.2. The Court went on to further take notice of defamatory and hostile criticism of the Judges or the Judiciary to hold that it scandalizes the Court. We may reproduce paragraph (35) of the same report herein under:

"35. It is apparent that the contemnor is involved in making allegations against the retired and sitting Judges. On one hand, our attention was attracted by Shri Dushyant Dave, learned Senior Counsel, towards the norms of judicial conduct which also provide that Judges cannot express an opinion in the public. The Judges have to express their opinion by their judgments, and they cannot enter into public debate or go to press. It is very easy to make any allegation against the Judges in the newspaper and media. Judges have to be the silent sufferer of such allegations, and they cannot counter such allegations publicly by going on public platforms, newspapers or media. Nor can they write anything about the correctness of the various wild allegations made, except when they are dealing with the matter. Retired Judges do have the prestige that they have earned by dint of hard work and dedication to this institution. They are also not supposed to be answering each and every allegation made and enter into public debate. Thus, it is necessary that when they cannot speak out, they cannot be made to suffer the loss of their reputation and prestige, which is essential part of the right to live with dignity. The Bar is supposed to be the spokesperson for the protection of the judicial system. They are an integral part of the system. The Bar and Bench are part of the same system i.e. the judicial

system, and enjoy equal reputation. If a scathing attack is made on the judges, it would become difficult for them to work fearlessly and with the objectivity of approach to the issues. The judgment can be criticized. However, motives to the Judges need not be attributed, as it brings the administration of justice into disrepute. In Halsbury's Laws of England, Fourth Edition, Volume 9, in para 27, it is observed that the punishment is inflicted, not for the purpose of protecting either the Court as a whole or the individual Judges of the Court from repetition of the attack but for protecting the public and especially those who either voluntarily or by compulsion are subject to the jurisdiction of the Court, from the mischief they will incur if the authority of the Tribunal is undermined or impaired. Hostile criticism of the judges or judiciary is definitely an act of scandalizing the Court. Defamatory publication concerning the Judge or institution brings impediment to justice."

32.3. The Court further while quoting the judgment in the case of R.Muthukrishnan v. The Registrar General of the High Court of Judicature at Madras, (2019) 16 SCC 407, in paragraph (83) observed as under:

"83. Dr. Dhavan, learned Senior Counsel, submitted that applying the doctrine of proportionality the balance will have to tilt in favour of the fundamental rights as against restrictions. He argued that reasonableness means substantive and procedural reasonableness and imports proportionality, and he has placed reliance on State of Madras and Ors. v. V.G. Row, (1952) SCR 597, Chintaman Rao and Ors. v. State of Madhya Pradesh, (1950) SCR 759, Papnasam Labour Union v. Madura Coats Ltd. and Ors., (1995) 1 SCC 501, State of Andhra Pradesh and Ors. v. McDowell and Co. and Ors., (1996) 3 SCC 709, Union of India (UOI) and Ors. v. G. Ganayutham (Dead) by Lrs., (1997) 7 SCC 463, Teri Oat Estates (P) Ltd. v. U.T. Chandigarh and Ors., (2004) 2 SCC 130, Om Kumar and Ors. v. Union of India (UOI), (2001) 2 SCC 386, Anuj Garg and Ors. v. Hotel Association of India and Ors., (2008) 3 SCC 1 and Chairman, All India Railway Rec. Board and Ors. v. K. Shyam Kumar and Ors., (2010) 6 SCC 614. Thus, he has submitted that the conviction be recalled, and no sentence be imposed. We have weighed the pros and cons, rights, and limitations

and thereafter rendered a considered decision regarding conviction, and as discussed in this order, on consideration of proportionality we find no room to entertain this submission. The same is repelled. Shri Dhavan, learned Senior Counsel, also relied upon the following statement in *Andre Paul Terence Ambard v. The Attorney General of Trinidad and Tobago*, MANU/MH/0027/1936 : (1936) All ER 704, the following passage has been relied upon:

"... no wrong is committed by any member of the public who exercises the ordinary right of criticizing in good faith in private or public the public act done in the seat of justice. The path of criticism is a public way: the wrongheaded are permitted to err therein: provided that members of the public abstain from imputing improper motives to those taking part in the administration of justice, and are genuinely exercising a right of criticism and not acting in malice or attempting to impair the administration of justice, they are immune. Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful even though outspoken comments of ordinary men.""

32.4. The Court appreciated the argument raised on behalf of the contemnor in the case of *Prashant Bhushan (supra)* in paragraph (67) as follows:

"67. Dr. Dhavan, learned Senior Counsel, fairly stated that in a sub judice matter, it is not open to the lawyer or litigant to go to press or media and make the statement. However, it appears that this good sense and counsel by a senior lawyer of long standing has not prevailed upon the contemnor. Dr. Dhavan, also stated that statement should not have been released by Shri Prashant Bhushan to press or media. It was impermissible for him to do so. We put on record our appreciation for the fairness of Dr. Dhavan, learned Senior Counsel. He has asked us to lay down guidelines for future guidance to the members of the Bar and the litigants on such aspects."

33. The petitioner in total defiance of all the lessons that are to be learnt by a legal professional has acted in a way which leaves us with no choice except to draw proceedings of criminal contempt against the petitioner in view of what has

been stated above for taking appropriate action in the matter. We, therefore, direct the Registry to place this order before the Division Bench dealing with Criminal Contempt matters to take appropriate action as per law, for which the petitioner shall present himself before the Bench concerned on 28.10.2020, for which the matter may be placed before the Chief Justice for issuing necessary directions on the administrative side.

34. In the light of the above action that we have proposed, we further find it necessary to put a check on the petitioner's professional activities, as he has, in our opinion, prima facie, transcended all barriers of ethical behaviour by filing a false affidavit himself before this Court and has indulged into frivolous and vexatious litigation, as noted by us in our order herein above. We are aware of this drastic measure, but in the background above, the petitioner has struck at the very roots of the administration of justice displaying himself to be a gallant knight in arms. The observations made by the Apex Court in the case of *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106, in paragraphs (239) to (241) are as follows:

"239. We may also add that these illustrations are not exhaustive but there may be other ways in which a malefactor's conduct and actions may pose a real and imminent threat to the purity of court proceedings, cardinal to any court's functioning, apart from constituting a substantive offence and contempt of court and professional misconduct. In such a situation the court does not only have the right but it also has the obligation cast upon it to protect itself and save the purity of its proceedings from being polluted in any way and to that end bar the malefactor from appearing before the courts for an appropriate period of time.

240. It is already explained in *Ex. Capt. Harish Uppal* [(2003) 2 SCC 45] that a direction of this kind by the Court cannot be equated with punishment for professional misconduct. Further, the prohibition against appearance in courts does not affect the right of the lawyer concerned to carry on his legal practice in other ways as indicated in the decision. We respectfully submit that the decision in *Ex. Capt. Harish Uppa v. Union of India* [(2003) 2 SCC 45] places the issue in correct perspective and must be followed to answer the question at issue before us.

241. Lest we are misunderstood it needs to be made clear that the occasion to take recourse to the extreme step of debarring an advocate from appearing in court should arise very rarely and only as a measure of last resort in cases where the wrongdoer advocate does not at all appear to be genuinely contrite and remorseful for his act/conduct, but on the contrary shows a tendency to repeat or perpetuate the wrong act(s)."

35. The petitioner in the present case by his conduct aforesaid has prima facie demonstrated that in spite of being given the opportunity by the Court during the course of the hearing, he maintained his intimidatory and obstructive attitude and his demeanor was neither contrite nor remorseful. As a matter of fact, and noted by us herein above, there is a tendency in the petitioner to repeat this performance and this is the second occasion when he has resorted to vexatious litigation.

36. For the above reasons, we find that it is necessary to protect the judiciary from such onslaught from advocates like the petitioner and, therefore, we direct that the petitioner Mr.B.Sathish Kumar shall not practice as a lawyer until further orders, or unless permitted by this Court in the criminal contempt proceedings that have been initiated by us.

37. We have also understood the present case to be an example of the targeting of a judicial officer of a rank of District Judge, functioning as a Registrar Vigilance, who has important functions and a role to play in the vigilance activities of this Court. Ordinarily, the Court should avoid any unnecessary exercise, but we find that a learned Single Judge of this Court in a very recent case [W.P.(MD) No.16185 of 2012, dated 05.10.2020 - N.Ulagaraj v. The Government of Tamil Nadu and another] while dealing with an Office Assistant of the Tax Registration Department, regarding his disciplinary proceedings, found the challenge raised to the order worthy of dismissal. However, while dismissing the writ petition, the learned Single Judge made certain observations regarding efficient public administration and anti-corruption measures to be taken. With regard to functioning of the State Government, the learned Single Judge made the following observations about the Judiciary in paragraph (17):

"17. While making observations regarding the corrupt practices in the Public administration of the Government Departments, this Court has to endorse the fact that the judiciary also is not exempted

from corrupt practices. The conscious of this Court would not permit, if this Court fails to mention the increasing corrupt practices in Judiciary Department as well as in Court premises. Justice requires equal treatment of all the citizen and consistency in the justice delivery system. Corrupt practices in the judicial system can never be tolerated. It is worser than that of the corruption in public departments. Judicial remedy being the last resort to the common man, effective, efficient and impartial judicial system in consonance with the constitutional, philosophy and ethos are to be achieved. Building confidence in the minds of the citizen on the judiciary system is the constitutional mandate. Doubts in the minds of citizen will lead to destruction of the constitutional principles. Undoubtedly, judiciary has to strengthen its vigilance wing and the prevailing vigilance system in the judiciary is insufficient to crush the corrupt practices. Frequent surprise visits and inspection in the judicial departments and premises are needed. It is pertinent to remind that many former Chief Justices of India had lamented that judiciary is not exempted from corrupt practices. Unfortunately, efficient measures are yet to be taken to deal with many kinds of corrupt practices in the judicial system. Making observations in the judgment is one aspect of the matter, but, if such findings are taken in a right spirit by the administrators then alone we can see the development of our great nation. Thus, the administrator must have a heart and spirit to take the issues in a right manner and attempts are to be made sincerely to develop an effective and efficient system."

38. We ourselves are of the opinion that such doubts should not reign in the minds of the people and judicial notice can be taken of the fact that during the past one year the High Court has taken disciplinary action against judicial officers and subordinate staff extensively through its vigilant administrative machinery in at least 39 disciplinary matters, for which the data has been roughly provided for by the Registry. This is a sufficient indicator of the High Court being alive to its responsibilities, but since the aforesaid observation was made in a judicial pronouncement, even though totally unconnected with the case in question, we find it necessary to mention this. However, we are not disclosing any further details as that might prejudice or affect any of the officials so charged and punished, or are facing disciplinary proceedings. The learned Single Judge, therefore, should not

have doubted the functioning of the Vigilance Wing without ascertaining any facts on that count, but we find that in the background of this litigation, it was necessary to point out that the High Court to the best of its capacity and ability has been responding to every such challenging situation on the administrative side. The public at large, therefore, need not be sounded on the capacity of the administrators to have a heart and a spirit to take effective steps to keep the stream of justice running pure. A general perception on any impulse may cause a doubt, but it appears to be far from reality.

39. We, therefore, in the above background also direct the matter to be placed on the administrative side of the High Court for taking such appropriate measures as may be necessary in order to keep the administration free from any such impediments that are likely to cause damage to the system on account of unnecessary publicity or veiled efforts made by either insiders or outsiders to unsettle the administrative machinery of the High Court.

40. The matter shall be placed on the administrative side for taking appropriate action or enquiry in respect of this incident.

In the result, the writ petition is dismissed with the above observations and directions, and with costs of Rs.5,00,000/- (Rupees Five Lakhs) as indicated above. Consequently, W.M.P.No.17921 of 2020 is closed.

Sd/-

Assistant Registrar (CS III)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

sasi

To:

- 1.The Secretary to Government,
Department of Personnel and Administrative Reforms (P&AR),
Fort St. George, Chennai - 600 009.
- 2.The Secretary to Government,
Law Department,
Secretariat, Chennai.

3.The Registrar General,
High Court of Madras,
High Court Buildings,
Chennai - 600 104.

4.The Chairman,
Bar Council of India,
No.21, Rouse Ave Institutional Area Road,
New Bal Bhawan Railway Colony,
Mata Sundari Rouse Avenue,
Mandi House, New Delhi - 110 002.

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

6.The District Collector,
Chennai.

7.The Registrar Judicial,
High Court, Madras.

8.The Section Officer,
Criminal Section,
High Court,
Madras.

+2cc to Mr.K.M.Ashok Kumar, Advocat, SR.No.33783
+1cc to Government Pleader, SR.NO.33851

W.P.No.14434 of 2020

MG(CO)
KKV/15/10/2020

सत्यमेव जयते

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