

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE NINETEENTH DAY OF MAY
TWO THOUSAND AND TWENTY

PRESENT

**THE HON'BLE SRI JUSTICE P. NAVEEN RAO
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

WP (PIL) NO: 89 OF 2020 AND WP NO. 6853 OF 2020

WP(PIL) NO.89 OF 2020:

Between:

Rapolu Bhaskar, S/o Late Rapolu Ramulu, Occ. Advocate, R/o Flat No. 501,
Vaishnavi Nest Apartments, Indira Nagar, Beside IKON Hospital, Dilsukhnagar,
Hyderabad- 500 036.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Law Department, Secretariat, Hyderabad.
2. The Chairman and Members of the Bar Council of Telangana, rep. by its Secretary, High court Buildings Premises, Hyderabad.
3. Telangana High court Advocates Association, High Court Building Premises, Hyderabad, Rep. by its President.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or a Direction more Particularly in the nature of a Writ of Mandamus declaring the action of the respondents in not providing financial assistance of Rs.40,000/- to the advocates and Rs.20,000/- to the registered advocate clerks in the State of Telangana and they are unable to meet day to day expenses during lockdown and some advocates in Telangana State and their family members are not in a position to meet their daily requirements for food, rents and medicine etc., due to lack of finance is illegal and arbitrary and consequently direct the respondents to provide financial assistance to the advocates and registered clerks and Save the junior and needy advocates and clerks of Telangana state from starvation and ask the concerned authorities to submit the reports of regarding distribution of amount and concerned officers in the interest of justice

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents forthwith to provide financial assistance R.s 40,000/- to the advocates and Rs.20,000/- to the registered advocate clerks who are working in the High Court of Telangana and the Subordinate Courts in the State Telangana during Coronavirus lockdown, ask the concerned authorities to submit the reports of regarding distribution of amount to know the actions that has been taken by the respondents and concerned officers for the pending disposal of the above writ petition (PIL)

Counsel for the Petitioner: SRI M. RANGAIAH

Counsel for Respondent Nos. 1 & 3: ADDITIONAL ADVOCATE GENERAL

**Counsel for Respondent No. 2: SRI G. M. MOHINUDDIN,
SC FOR TELANGANA STATE BAR COUNCIL**

WP NO: 6853 OF 2020

Between:

G. Krishna, S/o. G. Pentaiah, Aged, 41 Years, Occ, Advocate, R/o. H.No.11-14-138,
Plot No.18, J.P. Garden, Haripuri Colony, Saroor Nagar, Ranga Reddy District.
...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary (Finance Dept), Secretariat, Hyderabad.
2. The State of Telangana, Rep. by its Principal Secretary Law Department, Secretariat, Hyderabad.
3. The Telangana State Advocates Welfare Trust, Rep by its Chairman, Banda Shivananda Prasad, O/o 8th floor, BRKR Bhavan, Hyderabad-22.
4. Bar Council of Telanagana, Rep by its Chairman, A. Narasimha Reddy, O/o Bar council premises, high court of Telangana.
5. Bar Council of India, Rep by its elected state member, o/o Bar council premises, high court of Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ order or Direction more particularly one in the nature of Writ of mandamus declaring the notification and guidelines issued by the Respondent No.1 to 3 dated 07/05/2020, 08/05/2020 and 10/05/2020 as illegal, arbitrary and violative of articles 14, 19(1)(g) and 21 of Constitution of India and violative of provisions of Advocates Act apart from violative of principles of natural justice and direct the Respondent No.1 to 3 to take opinion and suggestion of the State Bar Council Members for decision making and appoint a committee with State Bar Council Members, forthwith and re issue the guidelines by making proper changes in the said guidelines within 7 days and consequently direct the Respondent No.1 to 3 to receive the application through online, To get financial assistance to all the practicing advocates irrespective of period of their standing as an Advocate who are in need of financial assistance and extend the date of submission of application

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.1 to 3 stay all further proceedings in pursuance of the guidelines issued by the Respondent No.1 to 3 dated 07/05/2020, 08/05/2020 and 10/05/2020 pending disposal of the above Writ Petition

Counsel for the Petitioner: SRI M. PHANINDRA BHARGAV

Counsel for Respondent Nos. 1 to 3: ADDITIONAL ADVOCATE GENERAL

**Counsel for Respondent Nos. 4 & 5: SRI G. M. MOHINUDDIN,
SC FOR TELANGANA STATE BAR COUNCIL**

The Court made the following:

ORAL ORDER:

The State Government decided to provide financial assistance to the needy Advocates and Advocate Clerks. Vide Order No. 411 Finance (EBS.VI) Department dated 6.5.2020 Budget release order was issued for an amount of Rs.25 crores to Law Department as additional funds. Government issued G.O.Rt No. 228 Law (E.I) Department dated 7.5.2020 immediately releasing Rs.15 crores for this purpose. The Trust is vested with the responsibility to disburse the amount to the needy Advocates and Advocate Clerks during COVID 19 pandemic.

2. Consequent to the above, the Trust formulated guidelines to identify the beneficiaries and to disburse the amount. Copy of the guidelines are placed on record. The Trust has fixed outer limit of 7 years standing as Advocate to claim the benefit. The Trust stipulated 12.5.2020 as last date for submission of applications. Guidelines further stipulate that the person who intends to apply for financial assistance should be in real and active legal practice at the bar; ought to have passed All India Bar examination; not receiving any monthly payment from the Advocate office where he is working as Junior Advocate; was not earning monthly income of Rs.15,000/-; spouse should not be Government/ Private employee; a person enrolled as Advocate after retirement from service is not eligible. Subsequently, the guidelines are modified by the Trust and benefit is extended to all Advocates having standing at the Bar upto 10 years and facility is provided to Advocates to make applications through Whatsapp and email to the respective Bar Associations and also extended the date of filing applications to 16.5.2020.

3. WP (PIL) No. 89 of 2020 is filed by a leading practicing Advocate of this Court praying to declare the action of respondents in not providing financial assistance of Rs.40,000/- to the Advocates and Rs.20,000/- to the registered Advocate Clerks in the State of Telangana and seeks consequential direction to provide financial assistance to Advocates and Advocate Clerks.

4. WP No. 6853 of 2020 is filed by practicing Advocate praying to declare notification and guidelines issued by State of Telangana dated 7.5.2020, 8.5.2020

and 10.5.2020 as violative of Articles 14, 19 (1) (g) and 21 of Constitution of India and violative of provisions of Advocates Act, 1961 apart from violative of principles of natural justice.

5. Heard learned counsel for petitioners, learned Additional Advocate General for the State and Telangana Advocates Welfare Trust (for short referred to as Trust) and Sri G M Mohinuddin, learned standing counsel for Telangana State Bar Council.

6. Though several grounds are raised in the writ petitions, during the course of hearing learned counsel representing petitioners confined their submissions to the clause in the guidelines formulated for extending financial assistance, restricting the financial assistance only to Advocates having practice of not more than 7 years (later extended to 10 years).

7. Learned counsel would submit that restricting the application of the financial assistance only to Advocates who are having maximum practice of 10 years is arbitrary and discriminatory; There is no justification for making such a classification; it cannot be said that Advocates who are enrolled more than 10 years ago are having good practice and therefore are not entitled to any financial assistance. In other words, the condition of classification based on the standing at the Bar is irrational, arbitrary and unconstitutional.

8. Learned Additional Advocate General submitted that having regard to the extraordinary circumstances due to COVID-19 pandemic and restrictions imposed on movement of persons, and as the Courts are also not taking up regular work, the Hon'ble Chief Minister announced Government resolve to grant some financial assistance to the needy Advocates to meet their basic requirements during the Lock-down period and therefore sanctioned an amount of Rs.25 crores to the Trust to be disbursed to the needy Advocates and Advocate Clerks. He would submit that all Advocates cannot be said to be having the need of financial assistance from the Government and as many Advocates are having sufficient practice and can easily over come the constrains of Lock-down. He would submit that the guidelines formulated by the Trust are only intended to identify the

Advocates who are in dire need of some financial assistance due to Lock-down and other restrictions imposed to overcome COVID-19 pandemic.

9. Many advocates and their families live on the earnings from the profession. Many advocates also employ clerks to assist them in drafting, filing and all other aspects of prosecuting cases in the Courts. Their clerks also solely depend on the income from their work by assisting the lawyers. To prevent spread of COVID-19 virus, the Central Government and the State Government imposed Lock-down on all activities. Due to these restrictions, the regular functioning of the Courts is also stopped and Courts are now working through video conference mode, mostly dealing with urgent matters. This has also curtailed regular filing of cases. There is also merit in the contention of learned counsel for petitioners that due to severe restrictions imposed by the Governments, it is not possible for all advocates to file cases, consult their clients and to argue pending cases.

10. It can not be said that only advocates with less than 10 years standing are put to hardship. The hardship can be felt across the board, unless an Advocate has already established good practice, created office infrastructure and made savings, before the Pandemic surfaced. Establishing as a lawyer depends on various factors and has no relation to seniority of enrolment. A person can be a successful lawyer within few years of practice where as another person may not be able to make a mark even after practicing law for long years.

11. While sanctioning the amount, Government entrusted the responsibility to the Trust to disburse the amount to needy advocates and advocate clerks. These Government orders are not challenged. To identify the needy advocates, some procedure and method has to be adopted by the Trust. The Trust formulated guidelines to process the claims. In the absence of these guidelines the Trust could have faulted in disbursing the amounts. It can not be said that the Trust has not weighed all aspects before formulating the guidelines.

12. It was sought to be contended by learned counsel Sri Phanindra Bhargav for petitioner in W.P. No. 6853 of 2020 that the application should be received in physical form and amount be paid. It cannot be said that

advocates cannot make online applications. It is seen from the guidelines as they stand now, even through whatsapp / email an application can be made. In the present days, it cannot be expected that a lawyer do not have a smart phone with whatsapp on his phone/e-mail facility. Even assuming that such facility is not available to an Advocate, it is always open to that Advocate to reach out to his Association to help him out.

13. Object of the scheme is to extend financial assistance to needy Advocates and therefore such Advocates have to be identified to extend the benefit. The Trust as such may not have the means to verify the claims to extend financial assistance and therefore, it has to depend on some person to verify the claims. Thus, the guidelines require the authentication by the concerned judicial officer and the President and Secretary of the Association where an advocate has enrolled and practicing. The same can not be faulted.

14. Thus, we do not see any illegality in the procedure adopted by the Trust to process the claims.

15. At this stage, learned Additional Advocate General was fair in submitting that if Court directs, the Trust would extend the benefit of financial assistance to needy Advocates even if their standing at the bar is more than 10 years.

16. Having regard to the fair submission of learned Additional Advocate General, learned counsel for petitioners also agreed and requested to relax the restriction of 10 years standing at the bar. They also requested to extend the date of submission of applications.

17. There is no requirement in law for the State Government to provide financial assistance to lawyers. As independent professionals, lawyers have to take care of their financial requirements on their own. Therefore the decision of the State Government to sanction Rs.25 crores to provide financial assistance to the needy Advocates is appreciable. The only issue is on restriction of 10 years practice to grant the financial assistance to the needy Advocates stipulated in the guidelines formulated by the Trust.

18. We are of the considered opinion that restricting the extension of the benefit of financial assistance to Advocates having maximum of 10 years of practice is irrational, arbitrary and discriminatory and the guidelines to that extent have to be declared as not valid. The respondent Trust is directed to extend the financial assistance to all the needy Advocates without reference to maximum 10 years standing at the Bar. However, it is made clear that all other conditions prescribed in the guidelines are required to be satisfied to get the financial assistance. Further, since the last date for making such application was 16.5.2020 and by which date the 10 years condition was in force, we deem it necessary to direct the respondent Trust to extend the time to receive the applications till 22.5.2020. However, this extension is applicable only to such of those Advocates who are otherwise in need of financial assistance and could not apply earlier because of maximum 10 years standing at the Bar imposed in the guidelines.

19. The writ petitions are accordingly disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

//TRUE COPY//

Sd/- K. SAILESHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Law Department, State of Telangana Secretariat, Hyderabad.
2. The Secretary, Chairman and Members of the Bar Council of Telangana, High court Buildings Premises, Hyderabad.
3. The President, Telangana High court Advocates Association, High Court Building Premises, Hyderabad.
4. The Principal Secretary (Finance Dept), State of Telangana Secretariat, Hyderabad.
5. Sri Shivananda Prasad, Chairman, The Telangana State Advocates Welfare Trust, O/o 8th floor, BRKR Bhavan, Hyderabad-22.
6. Sri A. Narasimha Reddy, Chairman, Bar Council of Telanagana, O/o Bar council premises, high court of Telangana.
7. The Elected State Member, Bar Council of India, o/o Bar council premises, high court of Telangana.
8. One CC to Sri M Rangalah Advocate [OPUC]
9. One CC to Sri M. Phanindra Bhargav, Advocate (OPUC)
10. Two CCs to the Advocate General, High Court for the State of Telangana (OUT)
11. One CC to Sri G. M. Mohiuddin, Standing Counsel for Telangana State Bar Council (OPUC)
12. Two CD Copies

MBC
X

HIGH COURT

PNR,J
&
Dr.SA,J

DATED: 19/05/2020



COMMON ORDER

WP (PIL) NO: 89 OF 2020 AND WP NO. 6853 OF 2020

DISPOSING OF THE WP(PIL) & WP

WITHOUT COSTS

14
19
19-5-2020