

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1721 of 2021

1. Dr. Nirmal Kumar Shukla S/o Late Shri Dayanand Shukla Aged About 70 Years R/o 7 Rohni Vihar, Green Park Colony, Near Maharana Pratap Chowk, Thana Civil Lines Tehsil, Post and District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh
2. Shailendra Shukla S/o Dr. Nirmal Kumar Shukla Aged About 44 Years R/o 7 Rohni Vihar, Green Park Colony, Near Maharana Pratap Chowk, Thana Civil Lines, Tehsil, Post and District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh

---- Petitioners

Versus

1. State Bar Council of Chhattisgarh Through Secretary, New High Court Premises, Bilaspur, Bodri, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Y.M. Bhattad S/o Maniklal Bhattad R/o Shiv Kuti, Tekdi Road, Sitabuldi, Nagpur, 440012., District : Nagpur, Maharashtra

---- Respondents

For Petitioners – Dr. N.K. Shukla, Senior Advocate with Shri Arjit Tiwari, Advocate.

For Respondent No.1– Shri Y.C. Sharma, Senior Advocate with Shri Ajay Kumar Chandra, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-10-2021

1. By this petition the petitioners are challenging the validity of the order dated 06-09-2015 passed by the State Bar Council Chhattisgarh (respondent No.1) and also challenging the jurisdiction of the State Bar Council to entertain the complaint made by respondent No.2 on the ground that he has no locus standi.
2. It is submitted that respondent No.2 filed a complaint on 05-08-2013 before respondent No.1 against the petitioners. According to the provisions under Section 36B(1) of the Advocates Act, 1961 (in short 'the Act, 1961') the disciplinary committee of the State Bar Council is bound to dispose of the complaint received by it within a period of one year from the date of receipt. After passing of about two years the complaint was placed before the screening committee. Therefore, it appears that the complaint was filed by

respondent No.2 after his retirement. The petitioners are also aggrieved by the resolution dated 13-07-2019 passed by the State Bar Council referring the matter to the disciplinary committee of the State Bar Council.

3. It is submitted that respondent No.2 has no locus standi to file such complaint against the petitioners as he was neither a client or colleague, therefore, respondent No.2 is not an aggrieved person. By a letter dated 09-12-2015 it has been informed that respondent No.2 has not taken any permission from the competent authority before filing complaint against the petitioners. On this basis the petition has been filed and relief has been prayed for.

4. Learned counsel for respondent No.1 opposes the submission and submits that Bar Council has formally entertained the complaint filed by respondent No.2 and proceeding has been drawn which shall be completed as soon as possible after following the procedure. Hence, the petition may be disposed off.

5. Considered on the submissions. Section 36B of the Act, 1961 provides that disciplinary committee of Bar Council shall dispose of the complaint received by it under Section 35 expeditiously and in each case the proceeding shall be concluded within a period of one year from the date of receipt of the complaint or the date of initiation of the proceeding at the instance of the State Bar Council, as the case may be, failing which such proceedings shall stand transferred to the Bar Council of India, which may dispose of the same as it were a proceeding drawn for inquiry under sub-section (2) of Section 36.

6. On perusal of the dates mentioned in the petition regarding the filing and regarding placing the matter before the screening committee of the Bar Council and also regarding the resolution of the Bar Council dated 09-07-2017 (Annexure-P/1) and another resolution dated 31-07-2019 (Annexure-P/2), it is observed that the direction under the provision of Section 36B(1) of the Act, 1961 has not been followed at all and it appears that till date respondent No.1

has not concluded the proceedings drawn. Therefore, it is a clear case of violation of Section 36B(1) of the Act, 1961. However, for the reason that the inquiry initiated must be completed, hence, this Court is of the view that this petition should be disposed off with direction. Accordingly, this petition is disposed off and respondent No.1 is directed to take up the proceeding on the complaint against the petitioners expeditiously and conclude the same preferably within a period of 60 days from today.

Sd/-

(Rajendra Chandra Singh Samant)
Judge