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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.6573 OF 2014

Mrs.N.Kavitha

...Petitioner

Vs

The Registrar,
Bharathiar University,
Coimbatore- 641 046.

...Respondent

PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent herein to settle the professional fees pending sanction and payment from the respondent herein in favour of the petitioner as per claim bills sent to the respondent and the letters dated 10.01.2014 and 29.01.2014 with interest at the rate of 18% per annum till the date of payment.

For Petitioner : M/s.N.Kavitha
[Party-in-person]

For Respondent : Mr.C.Vigneswaran

O R D E R

The writ on hand has been instituted to direct the respondent to settle the professional fees pending sanction and payment from the respondent in favour of the petitioner as per claim bills sent to the respondent and the letters dated 10.01.2014 and 29.01.2014 with interest at the rate of 18% per annum till the date of payment.

2. Undoubtedly, the communication between a Lawyer and the client is a privileged one. Professional ethics required that the Lawyers are engaged on certain terms agreed between the client and the Lawyer. It is an agreement regarding the payment of legal fees fixed, agreed and paid. It is between the parties and sometimes orally and on some occasions, in writing. As far as the respondent-University is concerned, they may have certain Standing orders or proceedings for the purpose of settlement of



legal fees for the counsels engaged by the University.

3. At the outset, the Lawyer-client relationship being a privileged one, the terms and conditions agreed between the parties are to be resolved in the manner prescribed and in the event of dispute, an adjudication is required with reference to the documents, agreement or otherwise. Such an elaborate adjudication cannot be done by the High Court in a writ proceedings under Article 226 of the Constitution of India. It requires even oral evidences as in the present case, the petitioner in person, who is a legal practitioner, contended that at the instructions of the respondent-University, she had engaged the Additional Advocate General to contest the case on behalf of the University. The University, per contra, denying the allegation by stating that such oral permission is improper and the details regarding such oral permission has not been explained by the petitioner in her Bill. These all are the disputed facts. It requires oral evidences, if necessary and the other documents in original is to be scrutinized for the purpose of crystallizing the issues raised.

4. The Contention of the petitioner in person is that once the Standing counsel is appointed by the University, they need not seek permission to appear on each and every occasion. Contrarily, the respondent says that for engagement of the Additional Advocate General or Senior Counsel, written consent is necessary. These all are the contractual obligation between the parties based on the agreement or otherwise.

5. The Counter filed by the University states that the petitioner was relieved from the services of the Retainership of Bharathiar University vide Letter No.BU/E3-Rel.Order/2013 dated 21.05.2013 after settlement of the approved fees. The petitioner in her letter has stated that for Rs.7,54,000/- (Rupees Seven lakhs fifty four thousand only) as pending bill and another letter dated 29.01.2014 has requested to clear pending bill of Rs.9,54,000/- (Rupees Nine lakhs fifty four thousand only). The petitioner has failed to produce the accurate claim, which is pending at the respondent-University. The respondent has not sent any Vakkaalath to the petitioner to appear and appraise the SET-2012 cases on behalf of the University. For engagement of the Senior counsel warranted the mandatory approval of the Competent authority of the respondent. Further, the respondent has also sent a letter dated 27.06.2013 to the petitioner for justification. The petitioner in her letter dated 03.07.2013 submitted a justification, wherein the petitioner has specifically mentioned that "I have made a higher claim after an oral approval from your office".



6. The respondent states that the petitioner has not mentioned the authority, whom she obtained the approval to engage the Senior Counsel on a higher claim. The respondent-University is a Statutory body, has to conform all the affairs only through the written approval of the Vice Chancellor and Syndicate of the University.

7. It is contended that the competent authority has approved to constitute a three members Committee comprising of

- (a) Syndicate member of the University
- (b) Senior Professor
- (c) Deputy Registrar to resolve the request of the petitioner

The Committee carefully perused the records, details and Government Order towards payment of fee and resolved that "The Government Order 1033 of Public (Law Officers) Department dated 01.11.2010 in this regard be adopted and the fee and other charges claimed by Mrs.N.Kavitha, former retainer Advocate of Bharathiar University be settled as per the above Government Order in full and final settlement after adjusting any amount paid before this date"

8. Perusal of the entire counter affidavit would reveal that the bills presented by the petitioner, claiming legal fee are objecting. In the event of such dispute, the option left open to the petitioner is to adjudicate the issues based on the documents, evidences before the competent Court of law and High Court in a writ proceedings cannot entertain such disputed issues for the purpose of elaborate adjudication as such enquiry require scrutinization of original documents, evidences and oral evidences as the petitioner states that she obtained permission based on the oral orders. All these issues are to be resolved by the appropriate forum. Thus, the petitioner is at liberty to approach the Competent Court of Law for the purpose of adjudication of issues, with reference to the documents, evidences and oral evidences.

9. With this liberty, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kak/nti



To

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The Registrar,
Bharathiar University,
Coimbatore- 641 046.

+1cc to M/s.R.Renuka Devi, Advocate, S.R.No.55617

W.P.No.6573 of 2014

SRII (CO)
PM/22/11/2021