



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.19293 of 2020

and

W.M.P.[MD]Nos.16095 to 16097 and 16100 of 2020

G.Sivakumar

... Petitioner

Vs.

1.The Bar Council of Tamil Nadu and Pondichery,
Gate No.4, High Court Buildings,
Chennai-600 104,
Rep.by its Secretary.

2.The Nagercoil Bar Association,
Represented by its President,
District Court Campus,
Nagercoil-629 001.

3.Mr.A.Maria Stephen
Represented by its President,
The Nagercoil Bar Association,
District Court Campus,
Nagercoil-629 001.

4.T.K.Makesh,
Secretary,
The Nagercoil Bar Association,
District Court Campus,
Nagercoil-629 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of suspension, dated 14.12.2020, issued by the respondents 3 & 4 and quash the same and consequently direct the first respondent to take appropriate disciplinary proceedings against the respondents 3 and 4 for their illegal action of declaring an illegal Boycott on 08.12.2020 and penalizing the petitioner for alleged violation of court Boycott on 08.12.2020 and also direct the respondents 3 & 4 to pay suitable compensation to the petitioner.

For Petitioner

: Mr.M.S.Suresh Kumar

For R-1

: No appearance

For R-2 to R-4

: Mr.Shaji Chellan



O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

With the consent given on either side, the Writ Petition itself is taken up for final disposal.

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2. Heard Mr.S.Suresh Kumar learned Counsel for appearing for the petitioner and Mr.Shaji Chellan, learned Counsel appearing for the second to fourth respondents.

3. The identical issue was considered by us in W.P.(MD).No.8317 of 2021, dated 22.04.2021, which is extracted hereunder:-

3.After elaborately hearing the learned Counsels for the parties, we are of the considered view that the respondent Bar Association ought not to have placed the petitioner under suspension for having allegedly violated the resolution of the third respondent committee, for boycotting the Courts. Boycott of Courts is illegal, against public interest and against professional decorum. We need not refer to long line of decisions on this point. Not only the petitioner had been faced with such an order of suspension but one of his colleagues Mr.G.Sivakumar was also suspended and he has filed W.P.[MD]No.19293 of 2020 and the Hon'ble Division Bench, after referring to several decisions had granted an order of interim stay on 18.12.2020. It appears that pursuant to that order, Mr.G.Sivakumar, continues on the rolls of the respondent Bar Association.

4.As observed by us earlier, the right to practice the profession of law, which is an independent profession cannot be curtailed except in the manner provided under the law. This can be done by the regulatory body namely, the Bar Council. The role of the Bar Association is pivotal as the State Government had enacted the Advocates Welfare Fund Act, and the money is being paid to the advocates at times of distress or to the legal heirs in the event of demise of the learned Advocates. To enable the machinery to properly function, rules have been framed which necessitates the applicant to approach the concerned Bar Association, obtain membership and route his/her application through the Bar Association. This appears to be the role played by the Bar Association which has nothing to do with the right to practice. Otherwise, the Bar Association can never interfere with the right of an advocate to practice his profession. Thus, the



order of suspension would undoubtedly, work prejudice to the appellant.

5.Considering the facts and circumstances, we are of the firm view that the impugned resolution is not sustainable and not only it is without jurisdiction but it will create an unhealthy atmosphere among the members of the learned profession. Therefore, we have no hesitation to interfere with the impugned proceedings. Accordingly, the impugned order is quashed.

6.Learned Counsel for the petitioner submitted that the application for renewal of his registration with the Bar Council had been submitted to the Association which is yet to be forwarded.

7.Mr.Niranjana S.Kumar, learned Counsel appearing for the Bar Council submitted that the application has been forwarded to the Bar Council.

8.We direct the Bar Council to take the application on file and if the same is in order, renew the registration and issue appropriate orders.

9.Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

4. Following the aforesaid order, the Writ Petition is allowed and the impugned order of suspension, dated 14.12.2020, issued by the respondents 3 & 4, is hereby quashed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

This Petition having been posted on 19.07.2021 "For Being mentioned" in pursuance to the order of this Court dated 23.06.2021 and made herein in the presence of the abovesaid advocate, this court made the following order:-

We have heard Mr.M.S.Suresh Kumar, learned counsel appearing for the petitioner and Mr.L.Shaji Chellan, learned counsel appearing for the first respondent.

2. This writ petition has been listed under the caption 'for being mentioned'. We find that there is nothing to be rectified in the order passed in the writ petition.



3. It is submitted by Mr.M.S.Suresh Kumar, learned counsel appearing for the petitioner that the respondent-Bar Council of Tamil Nadu and Pondicherry is to be directed to give a receipt for the payment effected by the petitioner.

4. Mr.L.Shaji Chellan, learned counsel appearing for the Bar Council of Tamil Nadu and Pondicherry submitted that the demand draft was given sometime in January, 2021 and as of now, since the demand draft has become time barred, the petitioner has taken back the demand draft and as soon as it is re-validated and submitted, the Bar Association will issue the necessary receipt.

5. The petitioner is directed to re-validate the demand draft or take a fresh demand draft and submit to the Bar Council of Tamil Nadu and Pondicherry and on such submission, receipt shall be given to the petitioner forthwith.

Sd/-

Assistant Registrar (CS III)

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.The Secretary.

The Bar Council of Tamil Nadu and Pondichery,
Gate No.4, High Court Buildings,
Chennai-600 104,

+1 CC toM/s.M.S.SURESH KUMAR,Advocate(SR-20247[F] dated 25/06/2021

+1 CCToM/s.K.S.DURAI PANDIAN,Advocate(SR-20070[F] dated 24/06/2021

+1 CC toM/s.K.S.DURAI PANDIAN,Advocate(SR-23086[F] dated 19/07/2021

W.P.[MD]No.19293 of 2020

23.06.2021

AS(05.07.2021) 4P 3C

KB(27.07.2021) 4P 5C