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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.07.2021
CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]Nos.21293 & 21296 of 2019

Ramesh Babu
... Petitioner in W.P(MD).No.21293 of 2019

Punitha
... Petitioner in W.P(MD).No.21296 of 2019

Vs.

1. The Secretary,
   Bar Council of Tamil Nadu & Puducherry,
   High Court Buildings,
   Chennai - 600 104.

2. The Registrar,
   Disciplinary Committee,
   Bar Council of Tamil Nadu & Puducherry,
   High Court Buildings,
   Chennai - 600 104.
3. A.Anandan
... Respondents in both Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in connection with the impugned notice in D.C.C.Nos.253 & 254 of 2019 dated 12.09.2019 passed by the 2nd Respondent and quash the same as illegal, arbitrary, unconstitutional within the time limit that may be stipulated by this Court.

For Petitioners : Mr.Tha.Kanagamuthu
(in both Writ Petitions)
For Respondents : Mr.Niranjan S.Kumar
For R1 & R2.
Mr.J.Sathiya raj,
For R3.
(in both Writ Petitions)

C O M M O N O R D E R

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

These writ petitions have been filed by two Advocates, who are practising in the Courts of Tirunelveli and they are brother and sister. The third respondent in both the writ petitions is none

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other than the petitioner's father, who has lodged a complaint against the petitioners alleging that the petitioners have misused the position as an Advocate. Several allegations have been made, which are not gone into in the writ petitions, as it is not required to be gone into, because, challenges in the Writ Petitions are to an enquiry notice issued by the Disciplinary Committee of the Bar Council of Tamil Nadu and Puducherry. The impugned proceedings are not orders for the petitioners to be aggrieved. Therefore, it is appropriate for the petitioners to raise all contentions before the Disciplinary Committee of the Bar Council rather than to keep the matters pending before this Court on the issues, which require to be factually gone into by the Bar Council.

2. The learned counsel for the petitioners submitted that the Bar Council has no jurisdiction to enquire into the complaint, because it is fully factual and there is a civil litigation between the parties.

3. The learned counsel for the third respondent/father would submit that his own children had engaged hooligans and caused threat to life and limb of the third respondent.

4. As noted above, we are not here to adjudicate allegations and counter allegations, which are beyond the scope of a Writ Petition under Article 226 of the Constitution of India. Noting that the impugned proceedings is only an enquiry notice, we direct the petitioners to participate in the enquiry before the Disciplinary Committee of the Bar Council. The petitioners as well as the third respondent are entitled to place written submissions. It is well open to the petitioners to raise the contentions on the complaint beyond the scope of enquiry by the Bar Council, as the allegation is not one of a professional misconduct and that the allegation is false. Likewise, the third respondent is also entitled to plead before the Disciplinary Committee of the Bar Council, as to how this complaint is sustainable.

5. In the light of the above, we dispose of the Writ Petitions by directing the petitioners to raise all contentions before the Disciplinary Committee of the Bar Council and the enquiry to be conducted, after affording full and effective opportunity to the petitioners and the third respondent and thereafter, a decision to be taken on merits and in accordance with law.

6. It is submitted by the learned counsel for the petitioners that beyond the period of one year from the date of receipt of the complaint, the Bar Council cannot enquire into the matter. However, we note that the Writ Petition has been pending before

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this Court. Therefore, the time during which the Writ Petitions were pending before this Court shall stand excluded for computation of period of limitation of one year.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

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,
   Bar Council of Tamil Nadu & Puducherry,
   High Court Buildings,
   Chennai – 600 104.

2. The Registrar,
   Disciplinary Committee,
   Bar Council of Tamil Nadu & Puducherry,
   High Court Buildings,
   Chennai – 600 104.

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-21283[F] dated 06/07/2021)

+1 CC to M/s.THA.KANAGAMUTHU, Advocate (SR-21302[F] dated 06/07/2021)

+1 CC to M/s.J.SATHIARAJ, Advocate (SR-21475[F] dated 07/07/2021)

ORDER MADE IN
W.P.[MD]Nos.21293 & 21296 of 2019
05.07.2021

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