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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.9486 of 2014
and M.P.No.1 of 2014

Chithra V

.. Petitioner

Versus

- 1.Union of India,
Rep by its Secretary to
Human Resource and Development Department,
New Delhi.
- 2.The Union of India,
Law and Justice,
New Delhi.
- 3.The Bar Council of India,
Rep by its Chairman, New Delhi.
- 4.The Secretary,
Bar Council of Tamil Nadu & Pondicherry,
Madras High Court Campus,
Chennai 600 104.
- 5.The Secretary,
Bar Council of Tamil Nadu,
High Court Campus, Chennai 600 104.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the order dated 17.03.2014 of the 4th respondent herein in ROC.No.1141 of 2014 and quash the same.

For Petitioner : M/s.A.L.Gandhimathi

For Respondents: Mrs.S.Meenakshi,
Central Govt Standing Counsel
for RR1&2

Mr.S.R.Raghunathan for R3
Mr.C.K.Chandrasekar for RR4 & 5



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abeyance are not debarred from receiving their sanads even after they have completed 45 years of age. There may be a large number of persons who initially entered the profession but later took up jobs or entered any other gainful occupation who revert to practise at a later date even after they have crossed the age of 45 years and under the impugned rule they are not debarred from practising. Therefore, in the first place there is no dependable material in support of the rationale on which the rule is founded and secondly the rule is discriminatory as it debars one group of persons who have crossed the age of 45 years from enrolment while allowing another group to revive and continue practise even after 45 years. The rule, in our view, therefore, is clearly discriminatory. Thirdly, it is unreasonable and arbitrary as the choice of the age of 45 years is made keeping only a certain group in mind ignoring the vast majority of other persons who were in the service of Government or quasi-Government or similar institutions at any point of time. Thus, in our view the impugned rule violates the principle of equality enshrined in Article 14 of the Constitution."

4.Following the aforesaid decision, a Division Bench of this Court in M.Radhakrishnan v. the Secretary, Bar Council of India and another [2006 (5) CTC 705] has also held that "the object of the rule is only to curtail group of persons from entering into profession and to satisfy other group of person who also stand on the same footing. The State Bar Council cannot widen / expand its rule-making power so extensively to discriminate or classify between two similarly placed persons based on utter arbitrariness".

5.Therefore, from the above judgments, it is clear that the fixation of upper age limit in enrolling in the Bar is construed to be unreasonable.

6.However, Mr.C.K.Chandrasekar, learned counsel appearing for the Bar Council of Tamil Nadu and Puducherry and Mr.S.R.Raghunathan, learned counsel appearing for the Bar Council of India submitted that the subject matter in issue is pending before the Hon'ble Supreme Court in Rishabh Duggal and another v. the Bar Council of India and another in WP(Civil) No.1023 of 2016 and the Hon'ble Supreme Court has stayed the Notification issued by the Bar Council of India in BCI:D:1519 (LE:Cir.-6) dated 17.09.2016, on 03.03.2017.

7.In view of the above, this writ petition is disposed of subject to result of the Writ Petition (Civil) No.1023 of 2016



pending before the Hon'ble Supreme Court. No costs.
Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dhk/vkr

To

1. Secretary, Union of India,
Human Resource and Development Department,
New Delhi.
2. The Union of India,
Law and Justice,
New Delhi.
3. The Chairman, Bar Council of India,
New Delhi.
4. The Secretary,
Bar Council of Tamil Nadu & Pondicherry,
Madras High Court Campus,
Chennai 600 104.
5. The Secretary,
Bar Council of Tamil Nadu,
High Court Campus, Chennai 600 104.

+1cc to M/s.A.Gandhimathi, Advocate, S.R.No.22045

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JPL (CO)
SB (20/04/2022)